



June 19, 2017

Ms. Victoria Rutson, Director
 Surface Transportation Board Office of Environmental Assessment
 395 E Street SW
 Washington, DC 20472

Attn: Joshua Wayland

Re: AB_167_1189X. Cultural Resources Identification Report, Harsimus Branch

Dear Ms. Rutson:

The Pennsylvania Railroad Harsimus Stem Embankment Preservation Coalition (Coalition) submits these comments on the Cultural Resources Identification Report (CRID) issued May 5, 2017. We also join in comments submitted on behalf of City of Jersey City, Rails to Trails Conservancy and ourselves (City et al.) by our counsel in this proceeding. We are submitting these comments separately to emphasize our concerns and to further develop certain matters. While we view our comments as consistent with those submitted by our counsel, if any are in conflict we defer to the joint comments.

We have decided to provide comments, though we have fundamental reservations about the Report and the process in which it was developed. We are especially concerned about, and object to, the fact that the Board is purporting to conduct the National Historic Preservation Act Section 106 review without first requiring Consolidated Rail Corporation (Conrail) to reacquire certain parcels that the railroad unlawfully purported to sell to a developer in an illegal de facto abandonment, in 2005, without first seeking or obtaining the Board's abandonment authorization and without any timely compliance with the National Historic Preservation Act Section 106. A meaningful section 106 process cannot occur in these circumstances. To the contrary, the public is deprived of its right to meaningfully participate in Section 106 reviews if STB tolerates unlawful de facto abandonments. This is a critical breach of the Section 106 process when the rail line contains, as it does here, significant historic resources and is surrounded by significant historic resources that are related to the rail line. We request the Board to remedy this situation before further reviews dealing with adverse impacts and mitigation are undertaken.

Notwithstanding this very basic objection, our board welcomes the Report's documented research. We feel that it will further enrich the deep appreciation many residents of our city already have for our cultural resources. We especially support the Report's recommendations that the boundaries of the Hamilton Park National Historic District and the Harsimus Cove National Historic District should each be expanded to include the Embankment as a key contributing resource. We also concur that the Embankment should be included in the Pennsylvania Railroad New York to Philadelphia Historic District (eligible), although not as a discontinuous segment but as part of the Harsimus Branch from Marin to CP Waldo. The recommendations on these matters properly acknowledge that specific resources, significant in themselves, are also part of a larger historic fabric that is manifest in the Historic Districts.

June 19, 2017

To: Ms. Victoria Rutson, STB OEA

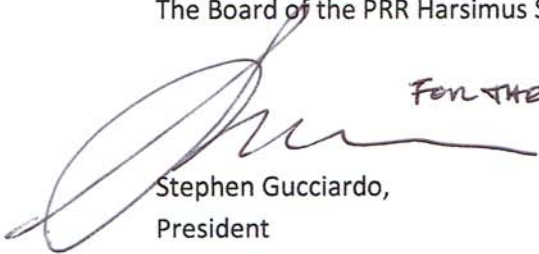
We also appreciate the recognition that several resources are eligible under Criterion A, in part because they tell an important story of our City's social history.

We strongly disagree with the Report's unwarranted conclusion that the PRR Harsimus Branch Right of Way is ineligible for listing on the National Register. The Report acknowledges its significance, but insists it lacks "integrity." We will show that enough remains from Marin to Chestnut to tell the story of why the Branch is significant.

We ask STB OEA, the NJ State Historic Preservation Office, the Advisory Council on Historic Preservation, and all those contributing to decisions that will determine the future of this historic railway to walk it and the adjacent Historic Districts with us and see what we see. All who contribute to a decision that will determine the future of this important resource are obligated to take a closer look.

Sincerely,

The Board of the PRR Harsimus Stem Embankment Preservation Coalition

 FOR THE BOARD

Stephen Gucciardo,
President

Christina Donnelly,
Secretary

Chakshu Patel,
Trustee

Bethany Wall,
Vice-President

Maureen Crowley,
Coordinator

Sean Gallagher,
Trustee

Peter Delman,
Treasurer

Jennifer Meyer,
Trustee

Luke Schray,
Trustee

**Embankment Preservation Coalition Comments on the
Cultural Resources Identification Report Issued by STB OEA May 5, 2017**

The following comments respond to the Cultural Resources Identification Report (CRID Report or Report)) for the Harsimus Branch issued by the Surface Transportation Board Office of Environmental Assessment on May 5, 2017.¹

We also fully support the comments submitted by our federal rail attorney, who jointly represents the City of Jersey City, Rails to Trails Conservancy, and Embankment Preservation Coalition, and we defer to these joint comments should any conflict occur with our own.

Because we do not want some statements in the Report to stand unchallenged, we are forced to comment in on items that we think do not belong in a report on cultural resources in the first place.

Our comments are organized in the following sections:

- A. NHPA Section 106 Process
- B. Areas of Potential Effects
- C. Recommendations for the Harsimus Branch
- D. Recommendations for Historic Resources Other Than the Branch

CONCLUSION

APPENDIXES contain maps and photographs supporting our comments.

¹ Time constraints made it impossible to neither conduct the level of research nor record all of the comments we would have liked to make. (A 45-day review period is quite short for an all-volunteer organization to respond to a 653-page report, researched and written over several years. Such a short period discourages meaningful public participation.)

A. NHPA Section 106 Process

Many issues addressed here and in Section B of these comments were previously summarized in a letter from our organization to Ms. Rutson dated June 22, 2016.² The May 2017 CRID Report indicates that previous comments from the public were considered in the preparation of the Report. We note, however, that none of the comments we made in that 2016 letter appear to have had any influence on this new Report. We therefore provide more detailed comments here, and quote extensively from the June 22, 2016, letter to demonstrate that so far our consultation has had little effect on the review proceeding.

1. **The Report ignores the key issue the Coalition, the State Historic Preservation Office, and others raised that a legitimate National Historic Preservation Act-mandated Section 106 review on the Harsimus Branch cannot be properly conducted while part of the rail line remains in the ownership of a third party (the railroad's chosen developer) rather than the railroad.**

Our understanding is as follows: STB must authorize abandonment before a railroad may lawfully abandon (sell off) its property (rail, tracks, and land) and make these available for non-rail use. Yet a key portion of the Harsimus Branch was not only salvaged but also sold without Conrail's seeking or obtaining permission. This unlawful transfer deprived the public of rights under federal and state law. It put recognized historic assets into the hands of a party to this proceeding (the developer) that sought and still seeks to destroy them, and by so doing, to harm associated historic assets. It is the responsibility of the Surface Transportation Board (STB) under the National Historic Preservation Act (NHPA) and National Environmental Preservation Act (NEPA) to conduct reviews that seek to avoid adverse effects to historic resources. Transfer, lease, or sale of a historic property out of federal control without adequate preservation restrictions is in itself an adverse effect. Conrail should reacquire the property before further review in this proceeding or be ordered to do so, or other action taken to void the sale so the property is back in Conrail's hands. With this correction, STB can conduct a meaningful NHPA Section 106 process that affords the public a true opportunity for comment.

Our 2016 letter to Ms. Rutson also raised this issue:

Conduct the Section 106 review after reversing the transfer of deeds from Conrail to the LLCs. We believe that the STB must reverse the sale of the property that Conrail unlawfully alienated from the national rail system. Letting the sale stand precludes the meaningful consideration of practicable alternatives that guarantee preservation of the resource, as prescribed under NHPA and NEPA. We do not believe the public interest in preservation should be compromised because a rational Section 106 process has been circumvented.

3

² Letter from Stephen Gucciardo, Embankment Preservation Coalition, to Victoria Rutson, STB OEA, dated June 17, 2016.

³ Ibid.

2. Cultural Resources are supposed to be identified before *potential* effects of the undertaking are analyzed. Adverse effects, however, have *already* occurred.

A fundamental and grievous adverse effect on historic resources *already occurred*: Conrail's wrongful sale of a regulated rail line without seeking or obtaining authorization.

Another direct adverse effect that *already occurred* was the demolition of a stanchion at Brunswick between 6th and 5th Streets, a destruction of a historic asset that took place soon after the unlawful transfer of deeds.

We note that abandonment authorization, absent proper conditions and ironclad enforcement, will have a reprehensible effect: the STB, the agency charged with seeking ways to protect historic resources, will itself hasten their destruction. Such authorization would expose the Harsimus Branch and related historic assets to attack by the railroad and third parties that have already shown disregard for historic resources by purportedly transferring a rail line without prior authorization; by pursuing local demolition permits; by appealing the denial of those permits; and by destroying a historic stanchion shortly after the purported property transfer.

3. The Report would not be necessary at all had STB enabled the City of Jersey City to pursue an Offer of Financial Assistance (OFA) that would secure the corridor for public purposes compatible with historic preservation of the entire corridor.

The City of Jersey City has sought an opportunity to file an offer of financial assistance (OFA). The agency has vacated the schedule to do so, and not published another. The agency has also imposed unusual requirements on the City's efforts to pursue an OFA. This situation is counterproductive. The City has pledged to treat the corridor sensitively if it is in City control, and would be bound by law to do so.⁴ The City must consult with the State Historic Preservation Office on any treatment of historic resources eligible for the National Register. A successful City OFA would protect the corridor and avoid or mitigate adverse effects on historic resources. The CRID Report ignores the fact that the entire corridor from Marin Boulevard to CP Waldo would be kept intact consistent with NHPA if the City's OFA were permitted.

4. The CRID Report presents a misleading and even unnecessary summary of the AB_167_1189X case that treads lightly on unlawful acts of Conrail. It even claims that the City is somehow responsible for Conrail's unlawful de facto abandonment without regulatory agency permission.

The Report's description of the case seems at times apologia for Conrail. The Report begins its Executive Summary *in media res*, with Conrail's application to abandon.⁵

⁴ Mayor Fulop's letter to STB

⁵ Report, p. i.

We point out that Conrail's application, this proceeding, and attendant Section 106 review would never have occurred at all but for actions by City of Jersey City et al. City parties repeatedly asked Conrail whether it had complied with STB abandonment regulations. Instead of complying, Conrail unlawfully sold what was clearly a line of railroad subject to STB abandonment jurisdiction to a developer. City et al was forced to bring the matter to the attention of STB in F.D 34818. In response, Conrail's chosen developer launched relentless lawsuits aimed to silence opposition to the unlawful de facto abandonment and sale. Conrail responded not by mitigating its wrongful conduct but by signing a contract obligating it to support the developer's positions and development. Conrail then joined in many of the developer's suits. The CRID Report for all practical purposes ignores not only the unlawful sale but also the conduct designed to silence or override opposition to the unlawful sale in which Conrail and the developer then jointly engaged.

The CRID Report treats the unlawful removal of rail assets with extensive use of the passive voice as if this simply occurred, with no responsible actor. It refers to the "unique circumstances." But the "unique circumstances" here are the unlawful de facto sale in the face of City and Coalition concerns, followed by the concerted effort of Conrail and the developer to silence opposition through burdensome litigation. The Report exacerbates its presentation with suggestions that the City of Jersey City is in part responsible for the removal. The Report seems to suggest that Conrail did not bear sole responsibility for following federal rail law. But the agency has said that it regulates railroads. Railroads are not regulated by local governments. Moreover, suggestions that the City should have purchased the railroad before Conrail illegally sold it to the developer have been rejected by the United States Court of Appeals. That court said that the City did not have to engage in illegal self-help remedies, but could seek to enforce its federal and state remedies. Thus much of the Report's description is not only wrong but contrary to "law of the case."

STB must depend on lawful compliance with federal law; it has no investigative arm. The City parties had to bring the sale of the Harsimus Branch, and consequent evasion of NHPA Section 106, to the attention of STB in 2005 and then defend against relentless litigation to silence us. Yet the Executive Summary and Introduction to this phase of the Section 106 proceeding frames the unlawful removal of rail assets and unauthorized sale as if these simply occurred, a feat of Nature perhaps. The Executive Summary notes:

- "The Harsimus Branch has been out of service since 1992"⁶ (no mention that CSXT and NSR applied for discontinuance of service only in 2006)
- "Bridges that formed the viaduct and connecting links between the segments of the Embankment were removed beginning in the mid-1990s"⁷ (no mention that authorization was required and not obtained)

⁶ Ibid., pp. I, 1-5

⁷ Idem

- “All other railroad-related resources—such as bridges, culverts, stations, interlocking towers, signals, bulkheads, and other structures—have been removed”⁸ (no ascription of unauthorized removal)⁹
- “Most of the property underlying the Harsimus Branch right-of-way has been sold for development”¹⁰ (no mention of the actor and that the unauthorized sale of rail lines for development is unlawful)
- “...salvage has already occurred”¹¹ (but by whom and was authorization obtained?)

The Executive Summary eventually identifies Conrail as an actor: “Additionally, much of the right-of-way has already been sold by Conrail.”¹² It then – inexplicably – ascribes blame to the City: “Most of the tracks, ties, ballast, bridges and other structures were removed in the mid-1990s, at least in part at the request of Jersey City and before Conrail sought abandonment authority.”¹³ The record shows that the City, as is its duty, asked Conrail to address unsafe conditions. Conrail bears sole responsibility for following federal rail law.

The Summary picks up much of this narrative from Chapter 1: Introduction. The narrative is also in the 2000 APE Report, which was written when the consultants reported directly to Conrail. It should be corrected or, better, removed entirely from a Report that is supposed to be an identification of cultural resources.

We note that, In contrast to its treatment of the Harsimus Branch, Conrail seems to have understood its NHPA Section 106 obligations in rail abandonment applications statewide; their applications can be found in New Jersey State Historic Preservation Office files.

5. The Report’s claim that the City of Jersey City is in part responsible for the removal of rail assets is unjustifiable.

The Report makes this claim in Chapter 1 Introduction and then repeats it for emphasis in the Executive Summary: The Introduction says, “The Harsimus Branch abandonment is unique in that salvage has already occurred and most of the tracks, ties, ballast, bridges, and other structures were

⁸ Report, p. I, Similar statements on p. 1-5 and in Historic District Overlay for Harsimus Branch, p. 1 of 5

⁹ Report, p. ii p. 1-3, p. 1-5, We point out that this verbatim repetition of a sentence in the APE Report of 2008, when RGA (Richard Grubb Associates) was working directly for Conrail, is also wrong. Beyond the Embankment and the row of stanchions and other structures between Marin and the Palisades, the June 14, 2017, tour of an inaccessible area of the Branch revealed a rail bed, several culverts, electrical sheds, and many catenary supports. This raises the question: did RGA consultants actually visit the entire site?

¹⁰ Idem

¹¹ Idem

¹² Idem

¹³ Ibid., p. ii

removed in the mid-1990s, at least in part at the request of Jersey City and before Conrail sought abandonment authority from the Board.”¹⁴

This City had a duty, however, to press Conrail to abate its clear dangers to the public health and safety, from fires on untended tracks to the filthy, unlit, and dangerous underpasses filled with accumulated trash that were residents’ common experience before they took it upon themselves to clean areas adjacent to the rail line. That’s what a City is supposed to do: pressure offenders. Conrail, for its part, is in the business of running and abandoning railroads. It had sole responsibility to seek authorization from the regulatory agency for discontinuance of service, removal of rail assets, and sale of a rail line for non-rail purposes. It took none of those actions until forced to do so.

6. **The Report in Chapter 1 not only glosses over Conrail’s noncompliance but also suggests OEA’s customary treatment of potential environmental effects is sufficient to comply with NHPA and NEPA. We disagree.**

“Consistent with Board and court precedent, the review of environmental impacts in the EA focused on the potential environmental effects resulting from diversion of traffic from rail to other modes and also from salvage activities.”¹⁵

We believe environmental impacts of abandonment under NHPA and NEPA go well beyond this self-defined limit.

7. **The Report inexplicably seems to rely on Conrail claims that the railroad, without any disclosure to the buyer or the public, and with no inclusion in transferred quitclaim deeds, somehow retains by implication a railroad easement in the property upon the illegal sale.**

Conrail’s deeds to the developer purported to convey all of its interests in the right of way. Conrail reserved no rail “easement” and there is no evidentiary basis for such a claim. Conrail engaged in an unlawful de facto abandonment, as manifested by its removal of track and ties, and its public joining in the developer’s demolition permit requests aimed at the National-Register-eligible Embankment itself.

Again, the “unique circumstances”¹⁶ here are the unlawful sale for the purposes of demolition of a rail line containing a long-recognized historic resource. The Report treats this as a *fait accompli* about which nothing can be done. This starting point in a proceeding whose goal is to seek ways to avoid adverse effects unreasonably and unlawfully narrows the scope of the agency’s NEPA and NHPA scope of review.

¹⁴ Ibid. p. 1-3

¹⁵ Report, p. 1-3,

¹⁶ Report, p. ii, p. ii, p. 1-3,

8. **Although Jersey City has vital interests in the corridor, the Report casts normal city planning practices in this case as if these were oddities, somehow of less relevance because the City does not own the property in question.**

The Report puts it this way: “While Jersey City does not own any portion of the right-of-way, according to documents submitted to OEA, it has incorporated the central segment of the right-of-way into its Master Plan. In a number of reports and updates adopted by or included in the Master Plan, a group of reuse concepts for the Embankment are being considered as part of the overall planning strategy for Jersey City. These concepts include pedestrian and bike trails in a public walkway, a public trail joining the East Coast Greenway, and a light rail transit line that would connect to an existing system.”¹⁷

First, we understand that the City does own the right of way (Thomas Gangemi Drive Extension of Sixth Street) that was once rail coming off the Embankment into the Harsimus Yards. Second, presence in the Master Plan of properties not owned by the City of the City is far from an oddity. The Master Plan represents the City’s regulation of land use within its borders, including in respect to land that it does not own. The Master Plan is the product of a considered, democratic process, with input from stakeholders and the public, reviews by land use boards, and formal acceptance by the Municipal Council. Presence in the Plan is required for many actions the City takes regarding land it does not own. Moreover, here the City has gone beyond the Master Plan to pass a number of Resolutions and Ordinances and take other steps in readiness for acquisition of the Harsimus property. Indeed, the City joined by our Coalition and Rails to Trails Conservancy brought a declaratory proceeding (F.D. 34818) to obtain federal remedies so it could implement its Master Plan and protect this corridor from the demolition sought by Conrail’s chosen developer and Conrail. The City is implementing Master Plan provisions as conditions allow. For example, a section of the East Coast Greenway already exists off-road on the Hudson River Waterfront Walkway.

The Report ignores the fact that STB has the power to void sales that violate its jurisdiction. This fact fundamentally undermines the Report’s discussion and results in an inherent flaw in the Section 106 process.

9. **Appearances of a conflict of interest frustrate confidence in the Report’s background and in some conclusions.**

What the Report describes as “OEA’s third party contractor”¹⁸ was initially contracted directly by Conrail. The Report says “OEA issued a report in 2009 delineating the APE.”¹⁹ We understand, however, that the APE Report was written and perhaps even issued while the contractors reported to Conrail. At any rate, many positions adopted by this CRID Report appear to be influenced by Conrail positions: for example, the notion that Conrail has some sort of implied rail easement when

¹⁷ Ibid.

¹⁸ Report, p. 1-1.

¹⁹ Ibid.

the railroad in fact deeded all of its interests to the developer. The fact that the former consultant to Conrail is now the consultant to the agency (while still being paid by Conrail), especially when coupled with discussions that accept Conrail positions and ignore the unlawful de facto abandonment, creates the appearance of a conflict that undermines public confidence in the Report.

We have been informed that this is the usual relationship at STB OEA but that does not make it desirable, and it is especially a problem in a controversial abandonment. The agency's obligation is to undertake an independent analysis, not accept Conrail positions or the positions of consultants hired by Conrail.

Our June 22, 2016, letter to Ms. Rutson previously addressed this issue, with no direct response and, now, no discernible response in the CRID Report:

Hire an independent historic preservation consultant. It is a conflict of interest for STB to rely on consultants originally working for Conrail to prepare any kind of independent analysis for the agency in a contested abandonment proceeding involving an unlawful abandonment and allegations of anticipatory demolition and deprivation of opportunity for meaningful comment. It is inappropriate for the agency to rely on Conrail's prior vendor for unbiased investigation, analysis, expert opinion, or advice. Conrail's prior vendor is an advocate for Conrail.

20

10. A detailed written description of how STB OEA is implementing the Section 106 process would have been helpful to consulting parties and was requested of OEA staff but is still not forthcoming.

The 2008 APE purported to present a plan but that was done under the aegis of Conrail and is inadequate and the process is taking place so many years later that it deserves a fresh look. We had expected that STB OEA would better define certain terms and follow the recommendations made by SHPO to have a process for robust public participation. We also expected to have a timeline.

A 2008 letter from SHPO Director Daniel Saunders to your agency called for a "public participation plan" to include "more specific provisions for involving parties and interested members of the public in the consultation regarding the resolution of any adverse effects."²¹

Despite our additional requests that STB OEA staff provide more information on planned steps, we have not seen a detailed plan or timeline. The lack of a detailed plan especially disadvantages the nonprofessional consulting parties who have little acquaintance with the Section 106 process. For example, many of us were not fully aware of the implications of APEs at the beginning of this process, although we now recognize how important an underpinning these are to the Section 106

²⁰ Gucciardo to Rutson Letter, May, 2016.

²¹ Letter, Daniel D. Saunders, Director, State Historic Preservation Office, to Mr. Kenneth H. Blodgett, Surface Transportation Board, December 23, 2008.

review process. Had we had more information, we would have asked for a consulting role in determining the APEs.

There is also no timeline for steps in the review process. We learned that we would have 45 days to respond to this Report, for example, around the time it was issued. This ad hoc approach does not serve consulting parties, some of whom, like ours, depend on all-volunteer labor.

In our June 22, 2016, letter to Ms. Rutson, we called for detailed steps and a timeline:

Set a schedule for the Section 106 review dependent on deed reversal, with clear milestones, and with ample time for meaningful consultation with the many civic organizations that have expressed interest. These milestones could be flexible, depending upon circumstances, but should include

- a. Initial consultation with consulting parties, including SHPO and ACHP. (SHPO representatives were present at the May 24 meeting as passive participants, but ACHP was not represented.) We do not view the May 24th meeting as a consultative meeting, but rather as a presentation by your organization and by RGA representatives. We also note that although OEA solicited public questions and comments and many attendees commented, no official minutes or notes were taken.
- b. Issuance of historic preservation reports that consider all the NHPA evaluation criteria; these should be drafted by consultants with no prior relationship with Conrail.
- c. Public Meetings
- d. Formal Response of Consulting Parties
- e. Final Report

We ask that consulting parties and the public be provided with easily accessible written reports well in advance of public meetings or public comment deadlines. We also ask that public meetings be scheduled during non-holiday times to maximize public participation.

22

We also asked how and when Section 110K would be considered:

Explain when and how Section 110K will be considered. Given that Conrail destroyed character-defining features of the historic Branch and its Embankment, we believe the Section 106 process should take into account Section 110K and its implications. The circularity of the consultants' preliminary findings that the Branch lacks integrity based on its unlawful destruction is astounding.

23

Additionally, how the OEA will handle the intersections of NHPA and NEPA has never been explained. So much time has passed, for example, since the Environmental Assessment that we asked staff if a new one would be prepared; we were told that issue would be addressed later.

When an Environmental Assessment (EA) was first issued, many comments called for an Environmental Impact Statement (EIS). STB rejected that request but the decision bears re-

²² Ibid.

²³ Ibid.

examination. Since the EA, Jersey City was severely flooded during Hurricane Sandy.²⁴ The world has awakened to warnings of global warming and its effects. The City of Jersey City is now doing extensive planning to address resiliency. A Jersey City report points out, “As a coastal city it is at risk of coastal flooding and storm surge. It was severely impacted by Superstorm Sandy with extensive flood and wind damage. When it comes to coastal flooding, urban coastlines have a unique set of vulnerabilities, constraints and opportunities. Densely populated low lying lands, historic and substandard building stock and infrastructure, and economic constraints create vulnerabilities. Historic patterns of high density development and investment in property and infrastructure do not leave land reserved for setbacks from the coast line.”²⁵

The Harsimus Branch runs through much former marsh and filled in areas and the Embankment segment plays a role in containing storm water. This environmental aspect should be fully considered by decision makers.

Perhaps because the Report states several times how unique and atypical this case is, its statement on an important step in the review process is especially concerning: “Typically, adverse effects are addressed by developing a Memorandum of Agreement (MOA) between the parties that outlines the measures to be taken to avoid, minimize, or mitigate the adverse effects.”²⁶ How does STB propose to arrive at agreement in this atypical case, in which the aim of several allied parties is destruction of historic assets?

11. The OEA Report describes other steps in the Section 106 process that have already occurred, in ways that do not comport with our experience.

For example, the Report states that “...OEA initiated the Section 106 process in 2009 by requesting that the Advisory Council on Historic Preservation (ACHP) participate in the Section 106 process. OEA also informed the ACHP and the New Jersey State Historic Preservation Office (SHPO) that there was a potential for adverse effects to historic properties that are listed in or eligible for listing in the National Register of Historic Places (National Register).”²⁷ This statement may be technically correct from OEA’s perspective but we point out that City et al objected to destruction of historic assets arising from the unlawful de facto abandonment as a key element of FD 34818, filed years before Conrail purported to pursue an abandonment application. City et al have actively brought adverse impacts flowing from Conrail’s anticipatory demolition of the Harsimus Branch to STB’s attention. We remain concerned that the agency is insufficiently sensitive to the NHPA and NEPA mandate to protect cultural resources and that the agency continues to fail to consider Section 110k.

²⁴ “Hurricane Sandy . . . was the deadliest and most destructive hurricane of the 2012 Atlantic hurricane season, and the second-costliest hurricane in United States history.... with particularly severe damage in New Jersey and New York.” Wikipedia, accessed June 12, 2017.

²⁵ Sandy Recovery Strategic Planning Report: A Strategic Plan for Resiliency, p.4. Jersey City. 2014.

²⁶ Report, p. i

²⁷ Report, p.i and p. 1-1

The Report also refers to meetings with consulting parties: “Meetings were held in Jersey City and Washington, DC in May and June of 2016 to discuss the Section 106 process with consulting parties, update the consulting parties on the status of the investigation, and to receive comments on the methodology of preliminary results.”²⁸ We question the conflation of meetings with various parties to suggest an extent and quality of outreach to the public that does not conform to our experience.

In 2016, for example, the Embankment Preservation Coalition was asked by STB OEA staff to assist in finding a venue in Jersey City for a meeting to introduce consulting parties to the Section 106 process. We thought it curious that the agency would not secure its own venue, but were pleased STB was coming to Jersey City and we cooperated to the extent of finding a venue, even after being informed that the agency could not pay for the space. We found a nonprofit to volunteer its space, and then, ironically, were informed by STB OEA staff that we should limit the number of representatives from the Coalition, a key party, in order to accommodate those from other organizations and parties.

In advance of the meeting, which took place in Jersey City on May 24, 2016, STB OEA staff described it as an OEA presentation on the Section 106 review and what had been done so far. We understood that the OEA consultants would be making a PowerPoint presentation and asked for it in advance in order to be prepared to comment, but it was not forthcoming, and we were informed that we were not expected to comment. We also asked for a list of invitees, and that was denied as well. Because we understood no comments would be asked for at the meeting, we felt disadvantaged when that turned out not to be the case. STB staff explicitly asked attendees at the meeting for questions and comments.

At the May 2016 meeting, Jeff Irwin, the then-liaison from STB OEA, moderated. He described the STB, explaining that the agency was small (only about 200 employees) and had limited resources, and he emphasized that the staff were going beyond their usual efforts to administer an appropriate Section 106 review. Coalition representatives present—and presumably representatives from other organizations and the developer who were present—inferred from these and other remarks that the agency lacked resources to provide more than a semblance of process, even in what the STB describes as a “key” case. We were alarmed that this proceeding seemed intended merely to move matters along. Rather, we had expected and hoped for a robust evidence-assembly investigation necessary to protect historic assets from harm in the face of the unlawful de facto abandonment by Conrail and the concerted effort by the developer, together with Conrail, to silence opponents with litigation.

The Report goes on to say that “OEA and RGA considered the comments from the parties and from the public in undertaking the cultural resources investigation. This final document presents OEA’s findings regarding the presence and historic significance of cultural resources located within the APE for the Harsimus Branch abandonment project.

²⁸ Report, p.i and p. 1-1

The Coalition views the agency's statements about the process as misleading. We had been told to expect a CRID that focused on cultural resources identification, with a separate phase for identifying effects. But the CRID as issued has quite extensive discussion of adverse effects or matters related to adverse effects.

For example, under the heading Public Consultation, the Report says, "Because the views of the public are essential to informed federal decision-making in the Section 106 process, the public should be informed about the undertaking and its potential effects on historic properties, and given the opportunity to comment. As a result of its initial filing of an Environmental and Historic Report with the Board on March 6, 2008, Conrail received detailed comments from several parties regarding potential indirect effects of the abandonment. OEA received numerous additional comments following the issuance of its 2009 Draft EA. These comments were thoroughly reviewed as part of the present investigation and addressed in this report insofar as they relate to cultural resources. Several additional organizations and individuals with an identified interest in history or historic preservation were added to the contact list during and following the preparation of the 2008 APE Report."²⁹ In short, the agency's CRID on its face goes beyond what the agency said it would.

The Report makes confusing statements about the next steps in the Section 106 process. The Report states, in regard to the current phase of the Section 106 review, *"Following the end of the comment period, OEA will issue a report that will address the comments received and will report OEA's findings regarding the potential effects of the Harsimus Branch abandonment on all identified cultural resources that are listed in or eligible for listing in the National Register."*³⁰ This statement may be read to suggest that a **combined report** will address comments received on the CRID Report **AND** will cover potential effects. We understood these would be two separate review phases. We raised this concern with STB staff this month (May 2017) and were assured that comments on the Report will be handled first; then effects will be identified.

In another section, the Report says, "In order to provide a complete and thorough foundation of cultural resources issues, this **final report** [emphasis ours] will be circulated to all of the parties on the contact list, including parties that have already provided comments related to Section 106 issues and those that were identified during and following the preparation of the 2008 APE Report. All interested parties will be invited to comment and provide information regarding potential measures that could be implemented to mitigate adverse effects to the historic resources identified in this report."³¹ It is unclear whether this statement refers to the May 5, 2017, CRID Report as the "final report," or whether it contemplates another "final report" after comments are received and analyzed.

²⁹ Report, p. 2-3.

³⁰ Report, p. v.

³¹ Report, p 2-3.

The Report is supposed to identify cultural resources potentially affected by abandonment and then presumably another report will be issued revising the list of resources, and only at that point providing an opinion on possible adverse effects on these resources. While the Report does address certain cultural resources at some length, its analysis of some resources, like the Branch itself from Marin to CP Waldo, is uneven.

Conrail/OEA consultants provided scant evidence for assertions that the Harsimus Branch is not eligible; their Report says the Branch lacks integrity. Yet it is not clear whether they visited certain areas, or even sought access, to parts of the Branch, as the part between Brunswick and Newark Avenue is fenced off,³² the part from Newark to the Palisades³³ crosses an active rail line, and the westernmost part includes fairly rugged terrain,³⁴ at least for an urban area. Upon request, Conrail granted permission for Coalition members and historic preservation experts to access the western area for purposes of evaluation under Section 106, and the tour took place June 14, 2017. We were pleased to find many historic assets there, most especially the Harsimus Branch rail bed. We provide comments on that tour in Part C, and reserve the right to supplement the record after June 19 because of time constraints.

12. The Cultural Resources ID Report was issued as a Decision. We ask whether this means the Decision was in fact a decision or merely a report for public comment.

We hope that STB OEA truly intended this Report not as a decision but as a report, and that STB OEA will seriously consider these comments on it.

³² A photograph included in the Report from the corner of Brunswick is from outside the fence, and resources extant on that block are not noted in the Report.

³³ The Report includes photos of some resources there, but not a photo from a perspective that would show the clear pattern of their lineup. Such a photo would rebut its conclusion that the Branch lacks integrity. Such photos are readily found on Google Earth.

³⁴ There are photos in the Report of the place where the Harsimus Branch met the Palisades, but no documentation on the Branch between that and the PATH area.

B. Comments on the Areas of Potential Effects

The APEs are the basis for all that follows in this review process, so any flaws in them ripple through the entire process. We have been advised by sources at STB and SHPO that the STB will not be receptive to expanding the APE but we will record the following by no means complete objections and note that if STB OEA reconsiders its stance, we would like to contribute to more expansive definitions.

The Coalition previously raised objections to the APEs in a letter dated June 22, 2016, from Stephen Gucciardo to Victoria Rutson of STB OEA. Despite the CRID Report's indication that comments were considered in the preparation of this Report,³⁵ the issues we raised do not appear to have been addressed. Quotations from this letter appear in blue below.³⁶

Withdraw the 2008 APE Report. It is our understanding that Richard Grubb & Associates Inc, (RGA) was commissioned by Conrail to write the report *before* Conrail applied for abandonment to the STB, and the consultants therefore operated under the original oversight of Conrail, not the agency. Perhaps owing to this Conrail-consultant relationship, the report appears to adopt Conrail legal positions - positions that have not been accepted by the STB. For example, the report states that Conrail retains a right of way easement while having sold only underlying property to the LLCs. We have seen no support for this position, either in history or deeds, nor has STB to our knowledge accepted this position.

The narrative also does not mention what we view as salient facts of this case: that Conrail removed character-defining features of historic assets along the Branch and sold a segment of the Branch for private development before applying

for required federal regulatory permission (unlawful abandonment, abuse of STB procedures, and anticipatory demolition under NHPA Section 110K); that, had the Conrail-LLC treatment of the rail line as unregulated gone uncontested by government and public interest groups, it would have avoided protections under federal law, including Section 106 review; and that the LLCs themselves later changed their position, stipulated that the rail line was a federally regulated rail line, and yet pursue a goal of demolishing historic assets.

We also asked if consulting parties had been invited to contribute to the APEs:³⁷

Was this report formally submitted to the consultative parties for comment with outreach encouraging them to comment, as required by the federal regulations? We believe it was not, and letting the 2008 Grubb narrative stand would be a disservice to the public.

³⁵

³⁶ Gucciardo to Rutson Letter of June 22, 2016

³⁷ Ibid.

We believe consultation would have resulted in broader APEs. May we expect additional APEs will be created for specific effects, such as removal of demolition debris and visual effects? If so, we request to contribute actively to those.

1. The Areas of Potential Effects (APEs) should be expanded.

- a. The current APEs were established seemingly before sufficient research had been conducted to identify all the significant resources on, near, and along the Harsimus Branch.³⁸
- b. Consulting parties were not asked to contribute to the APEs, although the APE is the foundation for all that follows in the process.
- c. Internal evidence in the May 5 Cultural Report itself argues for expanding the APEs.³⁹
- d. The APES completely ignore designated historic areas whose view sheds will be potentially affected. For instance, if the Embankment were to be demolished, views of it will be lost at every street corner north and south of it for some distance, and from other tall historic buildings throughout the City, like The Beacon, the former Jersey City Medical Center, the largest residential restoration project in the country and the largest in the history of New Jersey.⁴⁰
- e. The Report rejects, with scant support, the possibility that the entire Branch from Brunswick to Chestnut Street has archeological potential. The Jersey City and Harsimus Cemetery adjacent to the Branch, for example, has discovered Lenape artifacts on the grounds. See photos.

2. Our 2016 Letter to Ms. Rutson previously pointed out our concern about the APEs⁴¹ but this concern has not been addressed in this 2017 Report:

We also believe the 2008 APE maps for Archeology and Architecture are too narrowly drawn from the perspective of NHPA criteria for evaluation, which include “districts, sites, buildings, structures, and objects” that possess “integrity of location, design, setting, materials, workmanship, feeling, and association.” Both the Embankment and the entire Harsimus right of way are multi-layered historic resources, and potential effects and adverse effects are different for different areas of potential significance. The importance of the Harsimus Branch in conveying a sense of broad patterns of our history cannot be minimized. To reduce potential adverse effects to the visual impact of one ten-story building on one Embankment segment is to trivialize this evaluation.

3. The premise of the Architectural APE, so far the most extensive APE, is inadequate to cover certain reasonably foreseeable potential effects.

³⁸ 2009

³⁹ For example, Dickinson High School, other historic buildings in the City like the Beacon, the old Medical Center. (The Harsimus Branch can even be seen from the World Trade Center.)

⁴⁰

⁴¹ Gucciardo to Rutson Letter, June 22, 2016

A 10-story building on the Marin parcel is used as a reference for view shed impacts, for example, but the abandonment goes all the way to CP Waldo, and there is a much wider impact on view sheds from the areas to the west overlooking the Branch. Indeed, tall, historic buildings all over the City with a view to the Hudson River waterfront will be affected by anything that happens on the Branch. The historic properties that come to mind immediately are the National-Register-listed Dickinson High School, across from the Jersey City and Harsimus Cemetery, and The Beacon, the old National-Register-listed Jersey City Medical Center, which is the largest concentration of Art Deco buildings in New Jersey and the largest residential restoration project in the nation.⁴²

4. **Areas of Potential Effects should be the *maximum* area that may be affected by a project.**

The current Architectural and Archaeological APEs delineate the **minimum**, not the maximum, areas that may be affected by this project.

The Cultural Report itself includes the federal definition of the APE: “The APE is defined in 36 CFR 800.16(d) as follows: *The **geographic area or areas** within which an undertaking may **directly or indirectly** cause changes in the **character or use** of historic properties, if any such properties exist. The area of potential effects is influenced by the **scale and nature** of the undertaking and may be different for different kinds of effects cause[d] by the undertaking. Included within the APE are those locations where an undertaking may result in **disturbance of the ground**, from which **elements of the undertaking may be visible from public areas**, and where the activity may result in **changes in traffic patterns, land use, or public access.***”⁴³
[Emphases ours]

- a. The **geographic areas** delineated by the APEs are larger than asserted by STB OEA.
- b. Both **direct** and **indirect** effects will occur.
- c. The **character** of individual historic properties, as the Report elsewhere acknowledges by affirming the Embankment’s contribution as a key resource to the Historic Districts, is enhanced or diminished by the protection or lack thereof not only to the property itself but to other historic properties with which together they make up a more significant whole. Once abandonment is permitted, if stringent conditions are not set and a vehicle for enforcement established, the character of all associated resources is potentially diminished.
- d. The current APEs do not adequately address the **scale and nature** of what disassembly of the Branch and demolition of the Embankment and other historic structures will mean. These resources are inextricably intertwined in a historic fabric of which the Harsimus Branch is an integral part. Abandonment authorization will either preserve, with stringent conditions and follow-up enforcement, a rail line that vastly influenced land forms, demarcated neighborhoods, had profound economic impacts, and is

⁴² https://en.wikipedia.org/wiki/Beacon,_Jersey_City

⁴³ Ibid.

associated with religious, social, and cultural institutions during its formation, heyday, decline, and to this day, or the abandonment permit will result in the rail line's erasure and concomitant devaluation of all the historic assets with which it is associated.

- e. APEs should assume that most of or the entire Harsimus Branch will be developed post-abandonment if the STB does not take binding action to protect the resource itself and the historic resources in the surrounding area. If the Branch is removed from STB jurisdiction, the developer appears to threaten the City with a civil rights/takings claim, and asserts that the Embankment parcels alone are worth \$100 million. The developer will use that claim to pressure the City to allow demolition of the Embankment. We posit, at the very least, enormous pressure on the City to change its zoning to allow even more development not only of the Embankment but also of the Mill Creek basin, where the once tidal water course should be studied for restoration, not further degraded by more infill and development. The developer has proposed, according to the OEA Report, townhouses and a ten-story building on the Embankment parcels. The developer has discussed skyscrapers along the corridor, however, before the City Council. The development proposed by the developer to date is only the starting point of what is reasonably foreseeable if abandonment authority is granted that is not conditioned on complete preservation of the Harsimus Branch from Marin to CP Waldo for rail, trail, and open space purposes consistent with historic preservation. It is our understanding that Conrail has proposed 10,000 units of development plus billboards in the Palisades in connection with an abandonment. The history of litigation in this case suggests that aggressive challenges to local zoning and a radical change in *land use* will occur.⁴⁴
- f. Such **land use changes** in the western segments may necessitate the building of roads, ***changes in traffic patterns***, and other effects on neighborhoods, on natural resources, and on view sheds from public areas.
- g. The removal of the Embankment would be a massive undertaking, not a mere **"disturbance of the ground."** The Embankment is one of the largest, if not the largest, structure in the City (its length is the equivalent of the height of a 240-story building; for comparison, the tallest building in the world has 168 stories). It is unknown how deep the structures reach. The removal of rock and infill in itself would have an immediate effect on a wide area and an effect on truck routes in and out of the area and on local traffic.
- h. Although an analysis of effects is supposed to be a separate phase of the Section 106 review, the Report purports to discuss adverse effects, and further purports to minimize them in advance of a detailed analysis, with this model of understatement: "The LLCs' plans to demolish the Embankment segments and remaining bridge piers on the eight parcels and replace them with residential housing would have a *physical impact* on the Embankment, and a *limited visual effect* [our emphases] on surrounding properties."

44

That “physical impact” on the Embankment would be obliteration. The more than 300 property owners along the Embankment segment of the ROW would almost certainly object to the physical impact the removal of the massive Embankment would have on their fragile historic buildings.

Those owners and renters along the Embankment now look out upon fields, forest, and/or gorgeous stones and/or alleys. It is doubtful that they would view residential housing, an intrusion into the Historic Districts, as a “limited visual effect.” We can attest, as residents of the City who see the Embankment frequently or even every day, that we do not share the Report’s mild formulation. The thousands who already commented to the STB would undoubtedly also disagree with the Report’s characterizations.

- i. An APE, at minimum, should delineate physical staging and storage areas and routes for thousands of truckloads of stone and dirt that would need to be taken out of the City if the Embankment, piers, and abutments were to be demolished.
- j. An APE should delineate an area that would be affected by vibration, noise, dirt, dust, contaminants.
- k. In addition to historic buildings and structures, an APE should take into account historic land features like Mill Creek and the Palisades that will be affected by demolition, disassembly, removal, and/or construction.
- l. The current APEs do not embrace a sufficient area or areas that may be different for **secondary** and **cumulative** effects. For example, the post-abandonment development assumption adopted (with seeming reluctance) by the Report relies largely on actual applications for development permits submitted by the developer to local land use boards. All would require demolition. In practice, however, precedents for land development in Downtown Jersey City suggest that the Report’s assumptions are the most modest that can be drawn, for they rely on current zoning; it is much more likely that zoning will be changed and high-rise development will take place.
- m. Even where development applications have not been filed, and are not immediately filed post-abandonment, STB OEA should assume that debris will continue to blight historic areas and/or be left for taxpayers to clean up. For example, Conrail largely abdicated to the community its responsibility to maintain the area around the Embankment and Mary Benson Park for several decades after removing rail structures, and Conrail and predecessors for decades before that did minimal maintenance even when the railway was active.

- n. Because a good part of the Downtown comprises National Historic Districts, and other areas not listed that we believe should be eligible, the removal of a more-than-mile-long rail corridor will affect what may, upon study, be recognized as additional historic districts, not just Hamilton Park and Harsimus Cove.

An APE should at minimum include the Village, which was largely settled in the interstices of the Pennsylvania Railroad passenger and freight lines and whose historical significance is inextricably linked to that of Holy Rosary, which the report is recommending for listing. The Village Neighborhood Association defines the current Village area (research may suggest more expansive historic boundaries) as:

Village Boundaries

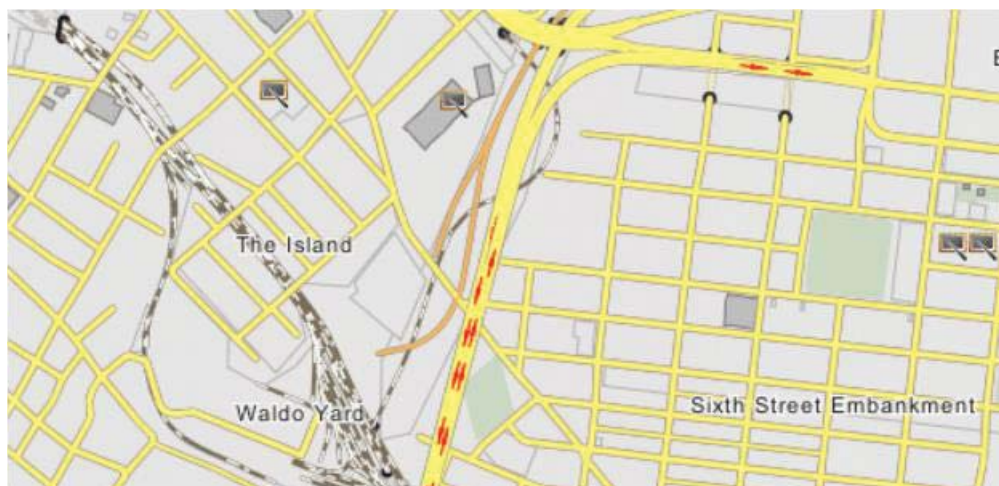
- North – Sixth Street, south side
- South – Christopher Columbus Drive, north side
- East – Coles Street, west side from Columbus Drive to Newark Avenue; Coles Street, up to the west side from Newark Avenue to 6th Street
- West – Turnpike Extension/Merseles Street, east side⁴⁵

An urban neighborhood can be eligible as the traditional home of a particular cultural group and as a reflection of its beliefs and practices.

An APE should also include The Island, an area vertically above the Harsimus Branch where it enters the Bergen Cut. The Island was isolated from the rest of the Palisades top by the Bergen Cut. Predecessor railroads to Conrail completely changed this land feature. “The Island is a small enclave within the Hilltop neighborhood which takes its name from its location atop an isolated outcropping of Bergen Hill formerly called Mount Pleasant which has been diminished in size by the railroads tracks which surround it. Vehicular traffic can travel along Chestnut Avenue onto the island, which is also served by a footbridge at Waldo Avenue. The name Island was used as early as the 1960s and though unknown to many because of the small size.”⁴⁶

⁴⁵ <http://www.jcvillage.org/101-2/where-is-the-village/> accessed June 13, 2017

⁴⁶ https://en.wikipedia.org/wiki/Hilltop,_Jersey_City , accessed June 14, 2017



Coordinates: 40°43'40"N 74°3'25"W⁴⁷

An APE should consider the wider Hilltop area. “The Hilltop is the eastern section of the Journal Square district of Jersey City...The name is a reflection of its location atop Bergen Hill, the southern portion of the Hudson Palisades, on either side of the cut, or excavated ravine, through which the Port Authority Trans Hudson rapid transit system travels, offering some streets views of Downtown Jersey City, the New York Skyline, and the Upper New York Bay... The neighborhoods borders are created by other excavations, namely Bergen Arches, the Long Dock Tunnel, and The Depressed Highway... Soon after passing the Hudson County Courthouse, Newark Avenue begins its descent. Rising above the avenue at the beginning of Palisade Avenue is the national historic landmark Jersey City High School. Designed by John T. Rowland (who also designed the Jersey City Medical Center and the Labor Bank Building), it was later renamed for William L. Dickinson, the Superintendent of Schools from 1872 until his death on November 3, 1883. Newark Avenue separates the school grounds from Jersey City and Harsimus Cemetery, originally developed in the mid 19th century. Across Palisade is the 1942 Hudson Gardens Housing Project.”⁴⁸

An APE should include William L. Dickinson High School, a National-Register-listed public school. “Dickinson occupies a prominent location on Bergen Hill overlooking lower Jersey City and the New York Harbor.”⁴⁹ Vegetation along its eastern edge obscures much, though not all, of the view of the Harsimus Branch from the grounds; the Branch is most likely clearly visible from upper floors but we have not investigated that probability. The Branch could likely also be seen with minimum maintenance of the

⁴⁷ <http://wikimapia.org/15273244/The-Island> , accessed June 15, 2017

⁴⁸ https://en.wikipedia.org/wiki/Hilltop,_Jersey_City , accessed June 13, 2017. Internal footnotes omitted.

⁴⁹ https://en.wikipedia.org/wiki/William_L._Dickinson_High_School

grounds. This first public high school in the City, built in 1910, served generations of Italian immigrant families in the Italian Village below it overlooks.⁵⁰

- o. If the Village were studied for possible listing as a National Historic District, the segment of the Harsimus Branch running through it would be a contributing resource to the Village.

Similarly, if the Island and /or Hilltop were considered for a Historic District, the rail forty feet below would be considered a contributing resource. These areas should be considered for their cultural, not just their architectural, significance.

The 2008 APE fails to include most of the National Historic Districts of Hamilton Park and Harsimus Cove as well as a broader area that constitutes what is really one historic Downtown Jersey City historic fabric inclusive of residential, industrial, commercial, church, and civic buildings in neighborhoods essentially historically shaped by the railroad lines running through the Downtown.

- p. When the current **APE Archeology** was delineated, the consultants apparently did not realize that Lenape artifacts have been found in the CP Waldo area.

The Report says, "There are three registered archaeological sites within one mile of the APE-Archaeology. These sites include one prehistoric site and two historic period sites. The prehistoric site (28-Hd-8) is located approximately 3,000 feet to the northwest of the APE-Archaeology. Limited information exists about this site, other than its location and general designation as prehistoric. The former location of a nineteenth-century railroad depot and ferry terminal (28-Hd-19) is located approximately 3,000 feet to the southeast of the APE-Archaeology. The most noteworthy site is the Apple Tree House (28-Hd-37), located approximately 4,000 feet to the northwest of the APE-Archaeology. The site contains one building and an asphalt parking lot that falls within the original boundaries of the 1660 Village of Bergen (Hunter Research, Inc. 2004). The Apple Tree House site has the potential to contain significant stratified archaeological deposits from the seventeenth through the twentieth century."

Even with this acknowledgment of nearby sites, the Report dismisses the archeological value of the western part of the Harsimus Branch from Brunswick through the Mill Creek/Harsimus Creek area to the area on the top of the Palisades and the Bergen Cut.

We believe that the Mill/Harsimus Creek area may be especially fertile area for Lenape artifacts from the time when the creek, tidal at both ends, was likely to have been used by indigenous people and early European settlers. There may also be artifacts from

⁵⁰ https://en.wikipedia.org/wiki/William_L._Dickinson_High_School

the early 18th-century Prior's Mill days. While there is fill in this area, the fill may have served to protect resources below it.

Further, the Jersey City and Harsimus Cemetery (the Report recommends it as eligible for listing) has Lenape artifacts found on the grounds. These are described as cutting tools and fishing weights.



Lenape Cutting Tools Found in Jersey City & Harsimus Cemetery.

Photo by Eileen Markenstein, taken June 14, 2017.

Eileen Markenstein, the Executive Director of the Jersey City & Harsimus Cemetery, reports that these tools appeared to have been stored at the roots of one of the Cemetery's oldest and largest trees. The tools were discovered in Summer 2014 when that tree, near the top of ridge on the west, fell down.

The provenance of the cutting tools was suggested by an Eagle Scout volunteer group leader who examined them, and by an anthropologist from Monmouth University who saw them and said they fit the timeframe of about 300 to 400 years ago when this area was probably a Lenape hunting ground. He said the fishing weights made sense, too, because of nearby streams. He said that these were used to hold down netting used to catch fish.

Ms. Markenstein said that she and others compared the tools found at the Cemetery to those on a web site that showed photos of Lenape tools, and the Cemetery tools were virtually identical. The Cemetery board intends to have all artifacts discovered in the Cemetery, including military artifacts, authenticated.

C. Comments on the Cultural Resources Identification Report's Recommendations for the Harsimus Branch

These comments apply to the segments of the Harsimus Branch west of Marin Boulevard to its western end in the Waldo area near Journal Square at roughly Chestnut Street (Marin to Waldo).⁵¹

1. **We agree with the Report's recommendation that the Embankment is a key contributing resource to the Hamilton Park National Historic District and to the Harsimus Cove National Historic District, and that the Districts should each be expanded to include the Embankment.**

This recommendation acknowledges that the Embankment is integral to the Downtown historic fabric.

2. **The Harsimus Branch from Marin to Chestnut should be recommended for listing on the National Register as a Historic District.**

The Report acknowledges that the Harsimus Branch has great historic significance but reaches the conclusion, with no evidence, that the Harsimus Branch from Marin to CP Waldo lacks integrity for listing on the National Register. This conclusion so troubles reasonably informed observers that we question whether those who reached this conclusion actually visited the entire Branch. The following items discuss aspects of integrity and the evidence that exists to

⁵¹ The Embankment Preservation Coalition from its inception has focused not only on preservation of the Embankment segment of the Harsimus Branch but also on promotion of its continued connections in Jersey City. While the Branch and its Embankment contribute to adjoining historic districts, they must be viewed as contributing to the PRR Philadelphia to New York corridor as well. The Coalition's position is that the 6th Street/Thomas Gangemi Drive extension supplies connection (and public access) all the way to the Hudson River Waterfront Walkway. Indeed, 6th Street/Thomas Gangemi Drive was once itself a rail route through the Harsimus Yards to a pier on New York Harbor. We support use of this corridor to supply connectivity for the remainder of the Branch as well as for adjacent neighborhoods all the way to the historic Warehouse District and the Hudson River Waterfront Walkway. We note that the Walkway is a designated East Coast Greenway segment with connection to New York, a project we have supported since at least 2004. We therefore limit our remarks to the Harsimus Branch west of Marin, where there are still vulnerable historic resources and where our work encompasses a network of trails, existing, planned, and envisioned, that promote connectivity through the City and region.

Since we formed our organization 18 years ago, there has been increasing recognition of the valuable nature of the Harsimus Branch from Marin Boulevard all the way to Control Point Waldo (CP Waldo) for a variety of purposes consistent with historic preservation. These include open space and trail (the Branch is the preferred route of the East Coast Greenway) through Jersey City to the Hudson River Waterfront Walkway), and, as recognized in Jersey City through planning documents, passenger rail. Over these past 18 years, Jersey City's exploding development, expanding population, traffic congestion, and crowded mass transit beg for additional mass transit options and alternative transportation facilities. In the case of the Harsimus Branch, this need for expanded transportation use of an underutilized rail corridor dovetails with historic preservation of the entire corridor itself. We therefore strongly support the City of Jersey City's efforts to acquire the Branch from Marin to its western terminus for rail as well as trail and open space. Rail, after all, is the historic use, and is compatible with trail and open space.

support a finding that the Harsimus Branch should be recommended for listing.

3. **The Report acknowledges the Branch’s historic significance, which would make it potentially eligible for National Register listing under Criterion A, for its association with events that have made a significant contribution to the broad patterns of our history “in the areas of Commerce, Community Planning and Development, Engineering, Politics and Government, and Transportation.” We agree on the Branch’s significance, and question why the Report doesn’t give this significance the weight it deserves, when evaluating integrity. Indeed, in another place in the same Report, even significance is questioned.**⁵²

The Harsimus Branch is highly significant on the local, state, and national levels. Its history, associations, and impacts have been documented by many sources and we will not attempt to describe them here.

The Report itself mentions some “firsts” associated with the Branch: “The Harsimus Branch played an important role in the history of commerce and transportation. It was one of several rail lines dedicated to handling freight traffic for the PRR in Jersey City and allowed the PRR to compete with its rivals by giving it a major presence in the Port of New York. In the process, these improvements contributed directly to the prosperity of the PRR, which became one of the nation’s key rail carriers, and helped to transform the Jersey City waterfront. Construction of the Harsimus Branch also played a role in shaping government policy. The PRR became the first entity to pay the state for its riparian rights, thus establishing the precedent and strengthening New Jersey’s claims to sovereign jurisdiction over riparian lands. The case of the Harsimus Cove lands led eventually to the permanent appointment of the State’s Riparian Commission in 1869. In terms of community planning and development, portions of the Harsimus Branch were also required to be elevated by legislative decree. Because it was elevated and located in a topographically complex area, the railroad faced specific engineering challenges, although none were new or particularly unique. These included alterations to the Bergen Cut by blasting a new channel through a section of Bergen Hill, and almost constant experimentation in the type of structure used to carry the elevated tracks down to the Harsimus Cove Yard. Some structures proved better suited than others. This, along with normal wear and tear, led to extensive alterations and the total rebuilding of the original elevated structure twice during its lifetime.”⁵³

In the context of the Branch’s importance place in history, we point out that evaluators of integrity have an obligation to keep in mind this importance, inspect the resource in its entirety, choose the most important criteria by which to evaluate it, and seriously consider those criteria.

⁵² Report, p. 5-16: “The Harsimus Branch right-of-way was found to lack sufficient significance and/or integrity to justify listing in the National Register.”

⁵³ Report, p. 5-16

4. **Despite acknowledging the significance of the Branch in local, state, and national history,⁵⁴ the Report concludes “the resource no longer possesses the level of integrity necessary to convey that significance and therefore does not meet National Register Criteria for eligibility.”⁵⁵ (The Report suggests in another place that the Branch may even lack enough significance.⁵⁶)**

The Report states, “With the exception of the previously listed Harsimus Branch Embankment (Milepost 0.36 to Milepost 0.88), approximately two-thirds of the Harsimus Branch Right-of-Way (.66 miles) is either obliterated by subsequent development or lacking in physical cohesiveness.”⁵⁷

Even given that “integrity” is to some extent a subjective judgment, this statement runs counter to what a reasonably observant person can see on the ground, for the part from Marin to the Palisades, and what our Coalition representatives and cultural experts saw in the westernmost area; see further comments below and see the Appendixes for photo-documentation contradicting this claim of lack of integrity.

We strongly disagree with this conclusion and with a similar assertion seemingly referring to the Brunswick-to-Newark block: “The intervening space lacks integrity as a rail corridor . . . and the visual continuity between the two parts is limited by distance and topography.”⁵⁸

Far from being “obliterated,” the Harsimus Branch from Marin to CP Waldo has not been built on at all, with the possible exception of the block between Brunswick and Newark, which appears to have a temporary structure (a tent), parking, and junked autos that could be easily removed. This block was compromised by the destruction of a pier by Conrail’s developer when the deeds were transferred; it should be replaced.

Despite such intrusions and demolished pier, this block still exhibits continuity from the Embankment stone structures on the east to the Mary Benson Park structures on the west. The Report does not mention the structures this block continues to retain.

Because the block is fenced in and usually closed off, we question whether the consultants were able to access it for a closer look than from outside the fence. A photo supplied in the Report (Plate 4-10) focuses on the northern corner of the block rather than where the rail line was situated (it narrowed here as it crossed Brunswick Street).

A Coalition representative was able to enter on one occasion when this block was open and

⁵⁴ The Report acknowledges the Branch’s historic significance in detail, but appears to oddly contradict itself by suggesting it may also lack significance: “The Harsimus Branch right-of-way was found to lack sufficient significance and/or integrity to justify listing in the National Register.” Report, p. 5-16

⁵⁵ Report, p. 5-16

⁵⁶ Ibid. “

⁵⁷ Ibid.

⁵⁸ Ibid., p. 5-11

obtain photos of rail structures still there. Even from the sidewalk, at least one structure is visible through fencing, but Plate 4-10 misses the area of interest. See Appendix A.

Far from “lacking in physical cohesiveness,” the segment from Marin to the Palisades exhibits a sequence of seven large structures (piers or stanchions), with shorter structures (piers that once held upright metal) in between. It is clear that these structures are associated with each other and were once connected. This segment ends with an abutment where the Branch enters the Palisades, and the course the rail line took there to CP Waldo is also apparent.

The Report puts more emphasis on what is missing than on what is there. It should be noted that the Embankment segment has already been determined eligible for listing on the National Register. It was found to have integrity, yet this Report cites the segment’s missing bridges as support for its claim that the entire Branch from Marin to CP Waldo lacks integrity.

The main characteristic of rail lines is their linearity. The linearity of the Harsimus Branch is clear. Fundamentally, the Harsimus Branch has retained its identity for well over a century.

5. **“A resource need not retain integrity of all aspects of integrity to be said to “retain integrity.”⁵⁹ Certainly a resource as significant as the Harsimus Branch should not have to meet each criterion for integrity to be eligible for the National Register. The Branch, nonetheless, meets all seven evaluation criteria for integrity.**

Location. The Harsimus Branch from CP Waldo to Marin Boulevard is in the same place it has been since its construction. Certain components may have changed, segments expanded, tracks reconfigured, but the essential location has remained the same. The only segment developed over is at the eastern end. Even in the former Harsimus Yards, a right of way running straight to the Hudson River along what is now an extension of Sixth Street, is retained as a Jersey City street. It is in place of former trackage that came off the Embankment and ran to the Hudson River. Reconfigurations and expansions may have occurred but appear to have been in essentially the same location.

Setting. The Report says “The PRR Harsimus Branch Right-of-Way extends through a highly developed, urban landscape characterized by passenger and freight rail lines, modern highway viaducts, contemporary single-story commercial and industrial buildings, warehouses, a cemetery, parking lots, public parks, athletic fields, attached and detached town homes, civic and religious buildings, and multi-story residential and business structures ranging in age from the mid-nineteenth century to the present day. The right-of-way passes through a deep cut in Bergen Hill and above the low-lying areas located at the eastern base of the Hill. The mouth of the Bergen Cut, through which the Port Authority Trans-Hudson (PATH) rapid transit trains now

⁵⁹ Guidance for Recording and Evaluating Linear Cultural Resources. Oregon State Historic Preservation Office, December 2013.

pass, shares the Bergen Cut at the branch's extreme western end."⁶⁰

This is a fair description of the setting, though it perhaps slights the effects of topography, as well as the historic landscape, sites, and buildings, in the overall picture. The more modern buildings and structures like the New Jersey Turnpike Extension feel like intrusions; they beg for answers to the question: What was here before this? Much of the setting is remarkably the same as when the Harsimus Branch experienced its heaviest use. The Embankment segment is between two National Historic Districts; the Report acknowledges their embrace by recommending that each District be expanded to include the Embankment as a key contributing resource. Moving west, the aerial line over passed through what was once referred to as the Italian Village, with mostly low-rise houses and multi-family dwellings, many of which were built in the interstices of the Pennsylvania Railroad passenger and freight lines and are still present. It crossed a rail line, formerly the New Jersey Junction Railroad and now the still-active National Docks Secondary and the Mill Creek basin (largely filled in but with some nearby evidence of the once tidal creek). Farther west, it passed the Jersey City & Harsimus Cemetery, founded in 1831, around the time of the 1st Bergen Cut through the Palisades. The Cemetery added land, moved the gatekeeper's house, and made other changes in the 19th century. This cemetery is still there, run by volunteers with a deep feeling for its history. The Harsimus Branch is still to its south and the retaining wall on its east still separates it from the National Docks Secondary. Beyond the Cemetery, the Harsimus Branch entered the Bergen Cut. The Cut isolated a neighborhood referred to as The Island to the south. The Island is still visible 40 feet above the beginnings of the Harsimus Branch in the Cut. The entry of the Harsimus Branch into the Bergen Cut is the same as when the 2nd Bergen Cut was dug from Palisades rock. Farther to the north is William L. Dickinson High School, the first Jersey City high school, built around the time the Harsimus Branch was expanded and looking out over it for more than a hundred years.

The marshy land over which the Branch was elevated and the nearby remnants of the otherwise filled in Mill Creek are still clearly identifiable. The piers or stanchions marching across the low lands from the Palisades to Brunswick Street⁶¹ clearly demonstrate the linearity of the ROW and the fact that this section was aerial and carried rail over structures different from the stone embankment segments that continue the ROW east. To the east, the mixed residential, industrial, commercial areas the Branch runs through also for the most part retain their character: the Village, as yet largely unprotected, is a recognized historic neighborhood, as are the National Historic Districts of Hamilton Park and Harsimus Cove. Specific institutional buildings along the Branch may have changed, like Holy Rosary and St. Anthony's complex, but those changes were roughly in parallel with expansion of the railway. The Harsimus Yards are gone, but even the development there elicits, to a discerning eye, the recognition that new

⁶⁰ Pennsylvania Railway (PRR) Harsimus Branch Right-of-Way. Historic District Overlay. Prepared by Philip A. Hayden and Allee Davis, RGA Inc. November 2015.

⁶¹ One stanchion at Brunswick is missing because the developer demolished it after the purported sale.

development must have replaced a very different use. Much of the rail-associated Warehouse District also remains intact, including Harborside, the PRR warehouses.

Design, Materials, and Workmanship. The main considerations for the design of the Harsimus Branch from CP Waldo to Marin were a) the need of a major rail company to build a line separate from its passenger line to handle the burgeoning freight traffic coming into the Port of New York. b) the topography a major freight line had to traverse, from west to east. c) the grade separation necessary through a partially built urban environment. The rail line had to get from the depths of the Bergen Cut, to the top of the Palisades, and then across a water course and marshland to terra firma on what used to be called Harsimus Island, then once again over soft infill to the Hudson River. All these topographical features are still present, even if some, like Mill Creek, have become less visible over time. It had to do this through neighborhoods without impeding traffic at street level or posing threats to the safety of pedestrians.

The major design characteristic of the entire line is its linearity, still very much discernible from Marin to CP Waldo. As Richard James, author of the Nomination of the Pennsylvania Railroad Harsimus Stem Embankment, wrote in notes to SHPO around 1999, the Branch is like an arrow shot from the Palisades to the waterfront. That metaphor is still apt.

The design solutions for achieving this linearity were different for each land form:

- The Embankment segment from Marin to Brunswick was constructed largely of massive granite and sandstone that carried tracks above city streets.
- The Brunswick to Palisades segment used stanchions or piers (extant) to support trackage. Seven piers (with modified concrete caps)) appear to be extant. An additional pier on the west side of Brunswick Street was demolished shortly after Conrail transferred the property in 2005. Together these piers continue to march to the Palisades in a clear linear pattern sufficient to convey that the rail line was aerial here. See Appendix A.
- The Palisades segment, adjacent to the Harsimus Cemetery, was constructed largely at grade, gradually descending on the west into the Bergen Cut, in an area now mostly occupied by PATH facilities, and terminating around Chestnut Street.

The major materials used in construction in turn differed for different segments and over time: large stone block and later concrete caps for piers, massive stone blocks for abutments and the Embankment segments. The Embankment segments and the hand-cut wall that forms the northern boundary of the 2nd Bergen Cut area where the Harsimus Branch enters the Cut perhaps vie to best exhibit the workmanship that went into the construction of the Branch.

Feeling and Association. The Harsimus Branch in its course from CP Waldo to Marin is really part of a historic landscape. Along with the neighborhoods it runs through, it conveys the feeling of what it was like to live in late 19th-century/early 20th-century Jersey City. Without knowing much about it, a discerning person could figure out that the remaining portions were part of a once mighty railroad into the Port of New York and New Jersey. S/he might realize it was from a similar period to that of its surroundings, and marvel that the grade separation efficiently managed transportation in a busy city. S/he might think about the other rail-related structures in the area – the Erie Embankment to the north, the PRR passenger line stub at Columbus Avenue to the south, the two railroad stations to north and south (the Erie Lackawanna in Hoboken and Central Railroad of NJ in Liberty State Park) and realize how greatly railroads shaped towns along the Hudson River and the neighborhoods in Jersey City and were such a part of everyday life. S/he might consider whether the origins of the current operating rail lines in this area or the PATH were related in time to this out-of-use corridor. S/he might speculate about the economics of transportation: what prompted such substantial structures/what caused their abandonment? S/he might wonder, since it's Hudson County, what politics were involved. When the whistle of the still operating National Docks Line (former New Jersey Junction Railroad) sounds through the night, it carries these associations and more, and a deep sense of history, to all with ears to hear.

6. **The Report fails to acknowledge the obvious connections between the three extant segments of the Harsimus Branch as described above and argues that missing rail features, distance, and lack of cohesiveness render the Branch ineligible for listing.**

Marin to Brunswick. The Report acknowledges the integrity of the Embankment. Curiously then, it cites the Embankment's missing bridges as reasons for not listing the Branch.

Brunswick to Palisades. The Report discounts the Brunswick to Palisades segment as contributing to the integrity of the Harsimus Branch. This segment has a sequence of seven large structures, whether piers/stanchions or abutments, with five shorter piers in between, that march across Newark Avenue, and run alongside Mary Benson Park toward an operating Conrail line, with the last extant stanchion facing an abutment on the Palisades that the Report notes in a photo caption⁶² supported the old Harsimus Branch track as it entered the top of the Palisades. The Report includes photos of some of these stanchions, but nothing illustrating the pattern they form.

In the Report, Plate 5-1 documenting the first block west of the Embankment appears to focus on the north side of the block rather than the side where the rail line narrowed as it crossed Brunswick on its way to Newark Avenue. That block is also fenced in, which suggests that the consultants may have viewed it only from the street. Even from the street, rail structures are visible that appear to have been overlooked. It is true that this block is missing an important

⁶² Report, Plate 5-1.

pier/stanchion/abutment, the one on Brunswick facing the last embankment. This structure was destroyed by Conrail's chosen developer after the transfer of deeds. We think that it should be restored.

The Report discounts the importance of the remaining stanchions marching straight from Brunswick toward the Palisades because they lack tracks and other elements. These clearly, however, delineate the right of way.

7. *Palisades to CP Waldo segment.* The Report virtually ignores this segment. It does include two photos of the entry point of the Harsimus to the Palisades, but little effort seems to have been made to trace the line there. The inspection tour that Coalition representatives took on June 14, 2017, conclusively lays to rest any notion that the Branch from Marin to CP Waldo lacks integrity. It is still quite easy to follow the rail bed of the Harsimus Branch to where it enters the PATH area near Waldo Street and continues toward Chestnut Street. The Palisades segment, adjacent to the Cemetery, is a tangled forest of trees, brush and trash that currently obscures a view of the Branch from adjacent property. However, visual inspection on June 14 pursuant to releases tendered Conrail confirms that the alignment in that area remains intact. The area is easily accessed by paths leading into it from the adjacent cemetery. Our inspection confirmed that the area includes gravel and stone rail beds, other rail structures including switching/signaling sheds that presumably held electrical equipment, numerous pairs of catenary supports to either side of the right of way, pipes, brick retaining walls for a drainage ditch, and other rail remnants. Here the Harsimus Branch was once joined by an extant bridge and rail segment that runs over Newark Avenue toward the Bergen Arches and is visible from north, south, and eastern vantage points along Newark Avenue. (This bridge and rail segment is variously referred to as the Nave, CP Nave, Nave connection to the River Line. The Report calls it the 1968 Penn Central connection.) See Appendixes.

8. **The Report not only lists missing components of the railway to attack its "level of integrity," but incorrectly includes some that still exist.**

The Report notes the piers/stanchions that once carried track from the Brunswick stone embankment to the Palisades, but it doesn't count them as contributing to integrity because they are missing components. Similar components are missing from the Embankment, and yet the Embankment has been determined eligible for the National Register.

9. **The Report dismisses what would otherwise be considered key contributing resources to a Harsimus Branch Historic District. These resources would together with the Harsimus serve to promote understanding of the historic interconnections of rail lines in this area.**

The report states, "Only a handful of potentially contributing resources survive. They include the Second Bergen Cut, the NJRR Bridge substructure (partial), the NJRR-to-Newark Avenue Viaduct substructure (partial), the Newark Avenue Bridge substructure, and the previously listed

Embankment segments.”

We question why the Report would dismiss these contributing resources as “only a handful.” The Embankment alone comprises most of the material that constructed the Harsimus Branch. Moreover, the key issue here is not the structures but the alignment. The structures (rail, ties, bridges, ballast) on a rail corridor are continually updated. If this corridor were updated for rail use or trail use, existing bridges would almost certainly by now need to be replaced. That would not mean that the corridor lacks integrity here any more than on historic rail corridors like the Union Pacific rail trail at Park City.

The key issue is alignment for a corridor which, as the Report acknowledges, is otherwise so important to economic, engineering, social, and cultural history. Of course, the remaining resources should now be preserved, insofar as that is possible, to tell the story. We are fortunate that the City’s plans for rail, trail and open space are so consistent not only with preserving remaining resources but with restoring for modern use bridges and other structures that were previously and unlawfully removed prior to the institution of this proceeding. In all events, the visible remainders of this corridor are more than sufficient to convey the historic significance.

We ask that when our evidence for integrity of the Harsimus Branch is accepted and the Harsimus Branch is recommended as eligible, that other historic resources dismissed as contributing to the Harsimus Branch should be reevaluated for their obvious contributions.

10. Contrary to its scant treatment of what does remain, the Report lists in detail the bridges missing from each segment and other missing ancillary structures. Missing components do not disqualify the Harsimus Branch for listing, however.

With historic rail corridors, the rail and ties are frequently removed and yet the entire corridor still remains eligible for the National Register. A part of a corridor can be newly surfaced and still be eligible.

11. One well-known rail corridor listed on the Register despite conversion into a rail trail is The Historic Union Pacific Rail Trail (28 miles out of Park City, Utah, listed since 1996). This example and others should be considered.

The Union Pacific Park City Branch RR Grade in Summit, Utah, is on the National Register. Its Nomination says, “rails and ties have been removed, however, the grade maintains its historic integrity.” At least one segment of the 29.36 mile railroad was much modified: “The entire portion of the grade from Monroc to Park City has been covered with six to eight inches of topsoil and ten inches of compacted road base to cover mine tailings.”

There are of course many other examples of railroad corridors listed or eligible for listing in the

National Register that have had all track and ties, and in some cases bridges, removed. The key is preservation of the alignment.

12. In the case of the Harsimus Branch, the entire alignment from Marin Boulevard to CP Waldo is still visible in aerial survey form as well as upon the ground. In other words, Conrail's unlawful removal of track and ties and even bridges and trestles does not disrupt the historic alignment.

The corridor yet conveys the sense of a major rail corridor into the Port of New York and New Jersey. Unkempt grounds and unsightly temporary intrusions like tents, tires, junked vehicles or even temporary parking and garbage do not disrupt integrity: all of that can be cleaned up. It is also difficult to understand how the Report can acknowledge, as it does, the integrity of the Embankment portion on the one hand but on the other hand cite its missing elements to support an argument that the entire line is lacking integrity.

Appendixes to these comments will show Harsimus Branch integrity.

13. **The period of significance of the Harsimus Branch should be 1868 through the current day because so many latter-day issues were issues then.**

Considering 1868 to the present (the 50-year guideline is not operative here because so much of the significance of the Branch is bound up with the history of railroad growth, power, and decline, the impact all of these had on neighborhoods, and the controversial history that lives on to this day.

14. **The block that appears to be most compromised is the one between Brunswick and Newark. Nevertheless there are rail assets here that were overlooked in the Report. Anyone evaluating integrity should also take into account the deliberate destruction of assets, even during this proceeding.**

Any compromise of this block is owed not only to Conrail's prior removal of tracks, etc., but also to the fact that the stanchion/pier on the west side of Brunswick that once supported tracks coming off the stone Embankment was deliberately destroyed shortly after City of Jersey City, our Coalition, and Rails to Trails Conservancy brought a declaratory action to determine that the Harsimus Branch was a regulated line of railroad. Almost immediately after we filed that proceeding, the developer bulldozed a stanchion, and, when we objected, agreed to cease destruction of the corridor pending resolution of our declaratory proceeding.

The declaratory proceeding was resolved in this agency, and later the United States District Court for the District of Columbia, as well as the United States Court of Appeals for the D.C. Circuit, confirmed that the Harsimus Branch was a line of railroad subject to STB abandonment jurisdiction. The destruction of that structure was in derogation of this agency's jurisdiction; it should be ordered restored and not regarded as evidence of lack of integrity. In any event,

multiple stanchions remain indicating the course of the Harsimus Branch all the way to the Palisades portion and CP Waldo.

The Report includes a photograph of this block, but the photograph was taken from the northeastern corner of 6th and Brunswick of an area that is not rail property. The rail line narrowed at this point and continued from the Brunswick structure toward its south side. They provided no documentation on rail features still remaining. Although this block is largely fenced off and therefore most of the time inaccessible, railroad structures are still visible from Brunswick, and the far end of the block at Newark contains a stanchion/pier on both the east and west sides of Newark. Temporary structures like tents or cars intrude upon the ROW but could be removed. See Appendix A.

- 15. We agree that the Embankment should be recommended for listing as part of the Pennsylvania Railroad New York to Philadelphia Historic District. It should be listed, however, not as a “discontiguous” segment but with the rest of the Branch from at least Marin to Chestnut.**

For all the reasons given above for historic significance and integrity, the Harsimus Branch from Marin to Chestnut should be recommended as key, contributing resource of the PRR New York to Philadelphia Historic District, with a period of significance from 1853 to 1957.⁶³

- 16. The Harsimus Branch should be recommended as a key contributing resource to the New Jersey Railroad Bergen Cut Historic District.**
- 17. To the extent the Report claims that there have been sales that disrupt the integrity of the corridor, the only sale by Conrail relating to the Harsimus Branch from Marin to CP Waldo is the unlawful 2005 sale to the developer.**

This Board has determined that the Harsimus Branch was clearly a line of railroad subject to STB abandonment authority. The United States District Court granted summary judgment to that effect. Conrail knew or should have known it was a line of railroad. The railroad instead sold this line illegally to the developer in order to avoid complying with federal and state laws that would have facilitated historic preservation. This agency has the power to void the deeds from Conrail to the developer and/or to require Conrail to re-acquire the property when a railroad acts in derogation of this agency’s jurisdiction. In any event, the sales are void under the language of NJSA 48:16-125.1. This agency cannot treat sales that are voidable by the agency or void under state law as disruptive of the integrity of the corridor. That would amount to denial of relief from an unlawful anticipatory demolition and abandonment because the action was exactly what was unlawful.

⁶³ Report, p. 5-7

D. Comments on Recommendations for Historic Resources Other Than the Branch Itself

We welcome the Report's reevaluation of certain resources already on the National Register and its conclusions that they qualify under additional criteria. We also welcome recommendations for eligibility of newly identified historic resources. We are quite troubled, however, that the Report's recommendations may serve to camouflage the important recommendation that the Report does not make: that is, that the Harsimus Branch ROW has historic significance and retains integrity and should be eligible for listing on the National Register.

It is difficult to understand the point of the Report's recognizing the Embankment's contribution to a PRR New York to Philadelphia Historic District, and to the two National Historic Districts on either side, and then in effect recommending that the Harsimus Branch that connects all these historic resources and more should not be protected.

We comment on other historic resources in the expectation that STB OEA will reconsider the Harsimus ROW for listing, now that we are providing indisputable evidence of its integrity.

If STB OEA accepts our comments on the need for expanded APEs, then more historic resources than the ones mentioned below should be evaluated for listing on the National Register.

- 1. We agree that the Hamilton Park National Historic District and Hamilton Park District Extension should be considered eligible for listing not only under Criterion C, as they now are, but also under Criterion A, and that the boundaries of the District and Extension be revised to include the Embankment.**

We note that the reasons OEA gives for recommendations referred to above are also germane to the Harsimus Branch ROW and its relationship to other historic areas not studied by this Report but that we feel should have been part of the APEs.

OEA makes this recommendation "in recognition of the neighborhood's significant broader contributions to urban development and social history of Jersey City in the late-nineteenth century and early-twentieth centuries. The development of the Hamilton Park Historic District in the mid-to-late nineteenth century is representative of the social and ethnic changes which the larger City underwent during this period. By 1861, when the rail line that ran on the block between Tenth and Eleventh streets was opened, businesses, religious institutions, and houses had begun to grow around the park, supporting the manufacturing concerns located closer to the Hudson River waterfront. This locus of activity contributed to the commercial prosperity of Jersey City and attracted a wide variety of affluent, middle-class, and working class immigrant families in the mid-nineteenth century. This neighborhood also represents an important part of the social history of Jersey City as it became a haven for immigrant communities such as the Irish and Polish beginning in the late-nineteenth century. The informal bounds of the neighborhood between Fifth and Seventh streets in the early 1870s were further realized with

the installation of the Harsimus Branch, beginning in 1876, on the block between Fifth and Sixth streets. In addition to being a public nuisance and barrier between the Hamilton Park neighborhood and those settlements further south, it discouraged middle- and upper-class settlement in the vicinity, and provided opportunities for poorer immigrants to build institutions and homes in the Hamilton Park neighborhood that might otherwise have remained composed of more affluent and native born families.

‘With the revisions to the eligibility statement acknowledging the Hamilton Park Historic District’s significance under Criterion A in the area of Social History, OEA has reexamined the role of the nearby Embankment to this history. The Embankment contributes to the Hamilton Park Historic District and the boundaries of the historic district should be expanded to fully encompass this historic resource. While the transportation qualities of the Embankment were not integral to the architectural and residential qualities of the Hamilton Park Historic District, the Embankment did create an imposing and enduring edge to this community. The Embankment effectively formed a broken wall that at once created blighted spaces along its corridor, encouraging the flight of affluent residents, while also opening up opportunities for new immigrant communities to thrive. OEA concludes that the Embankment contributes to the Hamilton Park Historic District because it (1) physically reinforced a spatial boundary between the commercial and social centers of the Hamilton Park and Harsimus Cove neighborhoods and (2) contributed to the social history of the adjacent neighborhoods by generating environmental nuisances that resulted in both lowering real estate values and resulting opportunities for community growth for immigrant populations in the late nineteenth century. The existing boundaries of the Hamilton Park Historic District require revision in light of the relationship between the Historic District and the Embankment. The Hamilton Park Historic District is both distinguished by its concentration of architecturally distinct and intact residential structures at its core and by its contribution to urban development and social history in Jersey City in the late-nineteenth and early twentieth centuries. We recommend that, in light of the Embankment’s impact on the historic community of Hamilton Park, the boundaries of the Historic District should be expanded to encompass the full limits of the extant Embankment.’⁶⁴

2. We agree with the recommendation that the Harsimus Cove National Historic District should be expanded to encompass the full limits of the extant Embankment.

We ask that the consideration of social history that the Report brought to bear on the Harsimus Cove National Historic District and the Hamilton Park district above be applied to the Italian Village and the Harsimus ROW as well. The Report says, “With the reexamination of the social history of Harsimus Cove Historic District in this study, it has been determined that the Embankment is a contributing resource to the Harsimus Cove Historic District as it played an important role in the social history of that district. As in the case of the Hamilton Park Historic District, the Harsimus Cove Historic District was affected by the construction of the Harsimus Branch. While the transportation qualities of the Embankment were not integral to the

⁶⁴ Report, p. 5-12

architectural and residential qualities of the Harsimus Cove Historic District, the Embankment created an imposing and enduring boundary, which at once created blighted spaces along its corridor, encouraging the flight of affluent residents, while also opening up opportunities for new immigrant communities to thrive. OEA concludes that the Embankment should be included within the Harsimus Cove Historic District because it (1) physically reinforced a spatial boundary between the commercial and social centers of the Hamilton Park and Harsimus Cove neighborhoods and (2) contributed to the social history of the adjacent neighborhoods by generating environmental nuisances that resulted in both the depreciation of real estate values and creation of opportunities for community growth for immigrant populations in the late-nineteenth century.”⁶⁵

3. **We ask that the STB OEA consider the role of the Public School No. 5 (the Dr. Michael A. Conti School) under Criterion A in relation to the Harsimus Branch and the Italian Village.**

The school was one of the first public projects in the immigrant Italian Village area that displaced many residents while seeking to serve them. This project and later public projects (the Turnpike, the Firehouse, the Ferris superblock school) were blows to a tight-knit community centered on Holy Rosary Church (recommended for listing) and contributed to the decline both of the community and of the parish.

4. **We agree with the Report’s recommendations for NR-eligibility of new sites.** The Report commendably documents certain historic resources along the Harsimus Branch and recommends some not previously listed on the National Register of Historic Places for listing. We agree with the new recommendations for listing
 - a. Jersey City and Harsimus Cemetery
 - b. Holy Rosary Roman Catholic Church Complex
 - c. the Jersey City Fire Department Engine 5/Ladder 6, and
 - d. Public School No. 4.

Most of these resources should be eligible, however, under more than the criteria cited. See below. We also think their listing argues for an expansion of APEs to include related resources.

5. **Mary Benson Park should be recommended for listing under Criterion A and Criterion B. The Report recommends that it is ineligible because it has lost integrity. We ask that this conclusion be reexamined.**

The Park should be considered in the context of the history of the Italian Village, which formed largely between and around the Pennsylvania Railroad Main Line and the Harsimus Branch. The Report itself argues for the Park’s historic significance⁶⁶, although it does not reach the

⁶⁵ Report, p. 5-14

⁶⁶ Report, p. 5-20

conclusion that it should be listed. “Due to the untiring efforts of one of Jersey City’s most philanthropic citizens, Mary Benson Park was built and opened in 1901 in what was then referred to as the Little Italy neighborhood. The park provided a clean, open space for children and their families to enjoy amid an area that was considered to be one of the more dilapidated sections of Jersey City.”⁶⁷ The Report notes “the park was established at the beginning of the twentieth century and is associated with the broader settlement house movement in the United States.”⁶⁸ Further: “the efforts of Mary Benson and the Jersey City Woman’s Club can be associated with the settlement movement of the early twentieth century.”⁶⁹ As the result of private philanthropy at the turn of the Century, the Park as it now exists, particularly with its adjacent monuments, remains a reminder of a wider social movements at the turn of the 19th-20th centuries, both here in Jersey City and elsewhere.

The role of women in ameliorating social conditions for immigrants is also noteworthy.⁷⁰ The Park came about because the Woman’s Club of Jersey City under the leadership of the chair of one of its committees, Mary Benson, lobbied City fathers for the Park, to serve the Italian immigrant community in what was then referred to as Little Italy. The area was a dumping ground next to the Harsimus Branch. The men who ran the City were at first indifferent, then gave in, then rejected the Woman’s Club name for the park, then finally, after her death and more lobbying, recognized Mary Benson’s contribution by naming it for her. Woman’s Club minutes reveal the pride the club’s members felt in Mrs. Benson’s accomplishments and positive personality.⁷¹

Opened in 1901, the Park was soon dilapidated, mostly because no provision was made by City government to end the dumping. In 1909 it was redesigned by landscape architect John T. Withers, who added a baseball field. “From then on, the park has since hosted myriad baseball teams despite the construction of the New Jersey Turnpike Extension (I-78) in the 1950s which effectively cut the amount of available space of the park in half.”⁷²

The Report says the Park lacks integrity because it does not retain its design, half was taken for the New Jersey Turnpike, and another part for the Firehouse now being recommended for listing. The physical changes that the Report says makes the Park ineligible, however, are themselves more than 50 years old. These changes – the taking of half the park for a transportation use benefitting suburban automobile commuters over residents of the community, followed by the local government’s taking of land for the siting of the firehouse -

⁶⁷ Report, p. 5-20

⁶⁸ Idem

⁶⁹

⁷⁰ See, for example, the description of Whittier House on Grand Street in Jersey City, modelled after Hull House, http://www.njcu.edu/programs/jchistory/Pages/W_Pages/Whittier_House.htm . Both these philanthropic institutions were founded by women.

⁷¹ Jersey City Woman’s Club Minutes, uncataloged. The Jersey Room, The Jersey City Free Public Library.

⁷² Report, p. 5-20

speak volumes about a history of environmental injustice, or at least unintended adverse consequences, often wreaked on impoverished or less valued parts of the city or populations by more powerful forces. A member of the social elite of the City, Mary Benson herself was excluded from the seats of power (women didn't have the right to vote until 1920). She used her social prestige and considerable energies to ameliorate the lot of those even more powerless.

The Report states "Neither does the park meet Criterion B as the place most directly associated with an individual. The Boyle/Hudspeth-Benson House, located in Millington, Morris County, New Jersey, is listed on the New Jersey and National Registers, partially due to its association with Mary Benson (NR: 12/10/1975; SR: 12/5/1974). The Boyle/Hudspeth-Benson House meets Criteria Consideration B as it is the most important surviving structure associated with Mary Benson."⁷³

We argue, to the contrary, that the Park should be eligible under Criterion B. The Report claims more importance for a house associated with Mary Benson's vacations and retirement than with the widely acknowledged principal legacy – the Park - of her active public life. Mary Benson's productive life was largely here in Jersey City.

Mary Benson Park, however diminished and perhaps even because of its diminishment, is a more important site associated with Mary Benson than the house cited in the Cultural Resources Report, because the Park is a product of her intellect and will, a manifestation of her motivations and energies and the causes to which she chose to contribute. "Properties eligible under Criterion B are usually those associated with a person's productive life, reflecting the time period when he or she achieved significance."⁷⁴

Mary Benson lived in Jersey City from 1844 to 1902, and the famous Lincoln episode occurred during this time: "In November 1864 as a young widow with four children, Mrs. Benson encountered John Wilkes Booth in a train in New York City. He and his companion had been speaking loudly enough for Mrs. Benson to hear their conversation about plans to travel to Washington D.C. When they exited the train, she and her daughter took their vacant seat and discovered an envelope which contained letters outlining the plot to assassinate President Lincoln. Mrs. Benson turned the letters over to the US Army and they were forwarded to Lincoln. The letters were found in his files after his death; they had "assassination" written on them in Lincoln's hand. They are held in the National Archives, along with Mrs. Benson's correspondence with Joseph Holt, the Judge Advocate General for the US Army (National Archives listing RG 110, Provo General's Bureau (Civil War), Secret Service Accounts, Entry 95, 1867-1870 and Misc. National Archives). Although the information was not able to prevent Lincoln's death, Mrs. Benson was called on to testify at Booth's trial. The night before she was to

⁷³ Report, p. 5-20

⁷⁴ National Register Bulletin. How to Apply the National Register Criteria for Evaluation.
https://www.nps.gov/nr/publications/bulletins/nrb15/nrb15_6.htm

take the stand, a strangulation attempt was made on her life. When she returned home she was shot at. Mrs. Benson took her children and moved to Canada for a brief period to seek refuge with relatives. Two years later, she testified at the conspiracy trial of John Surrat, before returning to Jersey City, where she began to exercise leadership in the area of social reform, and her most important work occurred here.”⁷⁵

This work “included child advocacy, juvenile justice, sanitary city conditions, the working conditions of trolley operators, education, the Greenville Hospital, and recreational facilities for impoverished children.”

“Benson convinced skeptical city officials that street cleaning, especially important due to the constant traffic of horse-drawn carriages, was feasible. She obtained private funding and volunteers to clean the streets for six months and the results were compelling; city-sponsored street cleaning was then instituted.”⁷⁶

The park was “her last legacy to Jersey City.”⁷⁷ Because the original park existed in what continued to be a marginal area, it was vulnerable to the sorts of changes cited in the Report. The park’s very existence, not the mutilated design cited as a reason for exclusion in the report, is what is most historically significant about the park.

Contemporary accounts of Mary Benson report her unstinting advocacy that resulted in the Park; after her death, the Park as she envisioned it was carved up by other interests – such developments are an important part of our broader history. The Park – partially intact – quite eloquently conveys this historic significance.

- 6. We agree with the recommendation that the parish comprising Holy Rosary Roman Catholic Church complex be listed under Criterion A “in the area of Social History for its vital role in the religious and ethnic history of Italian immigrants in northern New Jersey, and more specifically in Jersey City, and as the first parish in the Diocese of Newark dedicated specifically to Italian Americans.”⁷⁸**

As the Report states, “The parish of the Holy Rosary Roman Catholic Church played a role in the history of religion and Italian ethnic heritage in North Jersey. Established in 1885, the parish was the first of its kind exclusively dedicated to Italian Catholics in the Diocese of Newark and was

⁷⁵ *History of All Saints’ Church All Saints’ Church, Millington, NJ (written by Mark Alan Hewitt, AIA, Historic Preservation Architect from All Saints’ Preservation Master Plan, March 2006) as excerpted at*

<http://www.jcvillage.org/101-2/mary-benson-park/>

⁷⁶

http://www.nj.com/hudson/index.ssf/2017/05/the_hudson_county_people_you_should_know_about_186.html

⁷⁷

http://www.nj.com/hudson/index.ssf/2017/05/the_hudson_county_people_you_should_know_about_186.html

⁷⁸ Report, Holy Rosary Continuation Sheet, p. 12 of 27

founded in direct response to the wave of Italian Catholic immigrants entering New Jersey in the final decades of the nineteenth century. A Diocese dominated by an Irish and German Catholic establishment, language barriers and social customs, among other issues, necessitated the establishment of a separate Italian Catholic church. This set the stage for numerous additional Italian parishes throughout the Diocese.”⁷⁹

- 7. We ask that the APE for the Harsimus Branch be expanded to include the Italian Village area so that associations between the Village, the Harsimus Branch, the Holy Rosary parish, and Mary Benson Park will be considered in relation to the social history of this area and so that the importance of the Italian culture in this area will be better recognized.**
- 8. We agree with the recommendation that the Jersey City Fire Department Engine 5/Ladder 6 is recommended for listing under Criterion C for its architecture.**

We also think it significant under Criterion A in the areas of Community Planning and Development and Politics/Government.

We ask that the impacts of the taking of land for the Fire Department from Mary Benson Park, and its association with land use in the Italian Village, also be considered, as noted above, as further indication of why the APE should be expanded to include the Italian Village.

- 9. We agree with the recommendations that the Jersey City and Harsimus Cemetery be recommended as eligible for listing under Criteria A and D.**

It may also be eligible under Criterion B because many people important to the early City are buried there.

Because it has a large Italian burial section we think research into why these persons were buried in unconsecrated ground would be worth conducting with a possible expansion of reasons for listing under Criterion A.

Anecdotal references to bodies possibly buried by the Pennsylvania Railroad from cemeteries it disturbed for rail work may bear investigation as well.

- 10. We ask that further consideration for listing be given to Healy’s Tavern, which the Report is not recommending for listing.**

This modest building is located in a small triangle at Division Street and Newark Avenue, near what the Report states was one of two coal yards along the Harsimus Branch. The Report says that this building has historic significance as part of Jersey City’s industrial history and

⁷⁹ Report, Holy Rosary Continuation Sheet, p. 12 of 27

demonstrates land use typical of areas where railways start to enter more settled areas. The Report does not recommend it for listing, however, because of changes to the building.

As the site of the Jersey City Coal Company, this building appears to have been associated with the Harsimus Branch and may be a contributing resource to the PRR Harsimus Branch ROW that we are asking STB OEA to reconsider and recommend for listing.

We think the building may qualify under Criterion A as an example of a building associated with a marginal area made less valuable because of its proximity to the railroad and its use for rail-related business.

11. We ask that modest buildings on the streetscapes not recommended as eligible be reconsidered for listing.

We did not have time to research these buildings, but some upon further investigation may be related to rail use and/or an important part of the Italian Village. It is important not to dismiss the significance of buildings because they are not imposing.

12. We ask that White Eagle Hall, 335-337 Newark Ave, be evaluated for listing on the National Register. We ask that it be evaluated under Criteria A for its association with the Polish community in Jersey City, B for its association with Father Kwiatkowski, a long-time pastor of St. Anthony's who led the Polish church expansion in Hudson and Essex Counties, and C.

White Eagle Hall is a recently restored 1910 social hall built by Polish immigrants and craftsmen under the leadership of a pastor of St. Anthony's R. C. Church (listed), the first Polish Roman Catholic parish in New Jersey. The pastor, Father Peter Boleslaus Kwiatkowski, was himself a refugee "driven from his naïve Poland by Russian occupiers in the late 19th century."⁸⁰ The Hall was built by Poles during a time of the largest wave of Polish immigration into this country (1870 to 1914) and is a tribute to Polish art and culture.

The Hall is located within a short distance of the Harsimus Branch and its Newark Avenue stanchions.

The following information is adapted from a White Eagle Hall Fact Sheet researched by timothy Herrick:⁸¹

Above the entrances on the façade is an emblem of the White Eagle, the symbol of the Polish nation and its legendary founder, Lech. Four busts on the exterior commemorate distinguished Poles, from left to right, Jan Paderewski, the internationally recognized pianist and composer

⁸⁰ White Eagle Hall Fact Sheet. Timothy Herrick. 2017.

⁸¹ Ibid.

who later became the Prime Minister of Poland; Casimir Pulaski and Andrzej Kościuszko, two heroes of the American Revolution (the Pulaski Skyway and Kosciuszko Bridge are named after them); and Henryk Sienkiewicz, novelist (*Quo Vadis?*) and 1905 Nobel Laureate.

The restored/renovated White Eagle Hall facility is 13,353 square feet with a theater / performance space. Its capacity is approximately 400 seated/800 standing. A balcony level flanks the inner perimeter of the hall.

The hall's ceiling has two restored hand-crafted stained glass skylights, one commemorating Frédéric Chopin and the other Marcella Sembrich. Sembrich was an internationally renowned opera star who sang 11 seasons with the New York Metropolitan Opera; 1909 was the silver jubilee of her Met debut and coincided with the construction of White Eagle Hall.

In the 20th century, White Eagle Hall hosted recitals, concerts, theater productions, sporting exhibitions, and other community events. Thousands attended weddings, dances, dinners, graduations and other social gatherings there. The venue hosted the weekly St. Anthony's Bingo Game, which ran continuously into the 21st century. The original St. Anthony's Bingo Game sign now hangs inside the Newark Avenue service entrance.

From 1968 to 1975 performances returned to the White Eagle Hall stage. Young local music promoters were given permission by the parish to organize concerts, dances and "battle of the bands" nights. These Rock & Roll shows made WEH a weekend hot spot for Hudson County teens and young adults. Out of this short-lived music scene emerged Frank Infante and his band World War III. Frank Infante is a Jersey City native and Rock & Roll Hall of Fame inductee as a guitarist for Blondie.

The facility also hosted St. Anthony Friars, the basketball team of St. Anthony High School. Coached by Jersey City native and basketball Hall of Fame legendary Bob Hurley,

Father Kwiatkowski may make the hall a candidate for listing under Criterion B. The Nomination for St. Anthony's notes he served the St. Anthony's parish for 39 years, during which time he expanded the church complex and started several new Polish churches, including Our Lady of Czestochowa and St. Ann's.⁸²

During the Depression, Kwiatkowski transferred the ownership of White Eagle Hall to St. Anthony's Church. The parish managed the venue throughout the 20th century. In addition to church-related and other community activities, White Eagle Hall was a leading rental facility during this time, but theater and concerts became more the exception than the rule.

⁸² Nomination of St. Anthony's to the National Register. Accessed 6/19/2017 at www.embankment.org

Conclusion

The Cultural Resources Identification Report states that “One of the goals of this investigation is to evaluate the eligibility of the entire Harsimus Branch right-of-way, to determine whether or not the Harsimus Branch is a potential contributing resource to the National Register-eligible PRR (New York to Philadelphia) Historic District, as well as a potential contributing resource to adjacent historic districts: the Hamilton Park Historic District...and the Harsimus Cove Historic District.”

The Report purportedly determines that the Harsimus Branch is not eligible because it lacks integrity. This untenable finding must be reconsidered. We ask STB OEA to start with the evidence of integrity we provide here, gathered from a brief tour and supported with photos from Google Earth.

We further invite STB OEA, New Jersey State Historic Preservation Office, and Advisory Council on Historic Preservation to walk this railway and the adjacent Historic Districts with us to see what rich, inseparable historic resources are extant here. The Harsimus Branch is too important a local, state, and national cultural resource to be evaluated without a closer look.

APPENDIX A.

Embankment Preservation Coalition Photos Supplementing Report Documentation on Brunswick to Palisades Segment of Harsimus Branch

Concrete, Metal, and Stone Rail Structures Between Brunswick and Newark

The Report's consultants dismissed the continuity of the Harsimus Branch on this block. A complete set of piers/stanchions appeared to be present between Brunswick and the Palisades in 2005 until Conrail's developer demolished the stanchion on the west side of Brunswick, facing the westernmost stone embankment. We ask STB OEA to order Conrail and its developer to replace this stanchion.

The block still contains several concrete and metal structures that once carried tracks over this block, and a stanchion at the eastern end of the block. The connection from Brunswick west is clearly visible in Appendix B photos.



June 17, 2017. Cement and metal supports that presumably supported tracks from Brunswick to Newark.

June 17, 2017. Another metal rail structure between Brunswick and Newark:



A full stanchion exists on the western end of this block, on the eastern side of Newark Avenue. Across Newark there are seven more stanchions in a row leading to the Palisades. The Report includes photographs of some of these stanchions but does not clearly demonstrate the pattern they form. See Appendix B for photos showing their connections.



Photo taken 2013. Pier extant as of June 18, 2017.

Pier Bases west of Newark Avenue Showing Cut Off Metal Plates

There appear to be five extant, with perhaps a sixth concealed by vegetation.





APPENDIX B.

Historical Images of Harsimus Branch
Showing Branch South of Cemetery

and

Photos Taken by Coalition Representatives on June 14, 2017,
Showing Extant Branch There

On June 14, 2017, Embankment Preservation Coalition members and cultural resources experts, both private and from the City of Jersey City, toured the most inaccessible portion of the Harsimus Branch, the area behind the Jersey City and Harsimus Cemetery. The Coalition's aim was to seek evidence of the presence of the Harsimus Branch in that area. We first located the Branch on historical maps and Google Earth satellite photographs. These led us to expect that the rail bed of the Branch, clearly visible in Google Earth imagery, would be found, although now more obscured under vegetation.

This imagery suggested that we would find the Harsimus Branch from where its truss-and-stanchion aerial segment once entered the Palisades at an abutment near the Nave connection to the abandoned River Line. We expected to find the Branch as it continued at grade through the 2nd Bergen Cut to approximately Chestnut Street

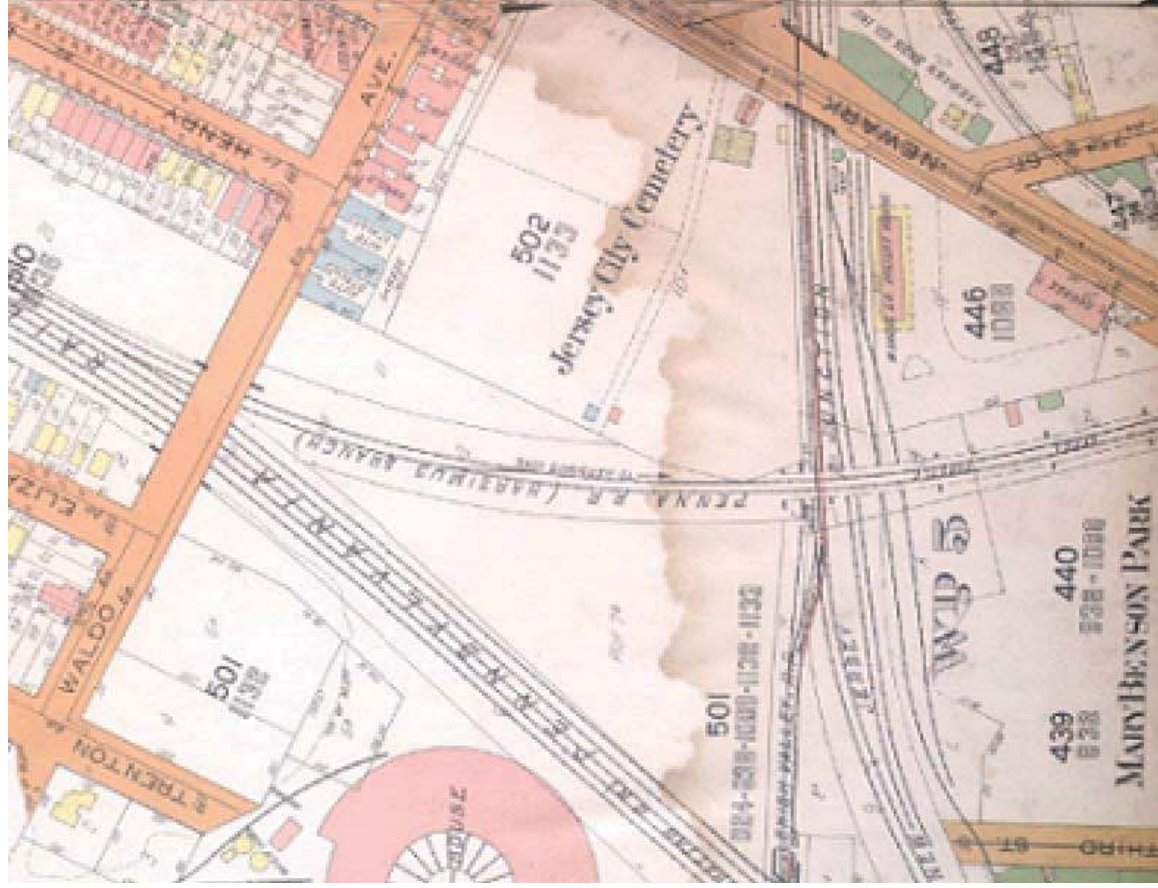
We did find the Branch: not only the rail bed, but many pairs of catenary supports on either side of the rail bed, a catenary pole, a drainage ditch with brick walls and culverts, transformer housing, and other rail remnants. Photographs follow.

When added to the evidence we provide on the other segments of the Branch, it is clear the Harsimus Branch demonstrates integrity to convey its historic significance from Marin to CP Waldo. Our experts will provide affidavits to this effect.

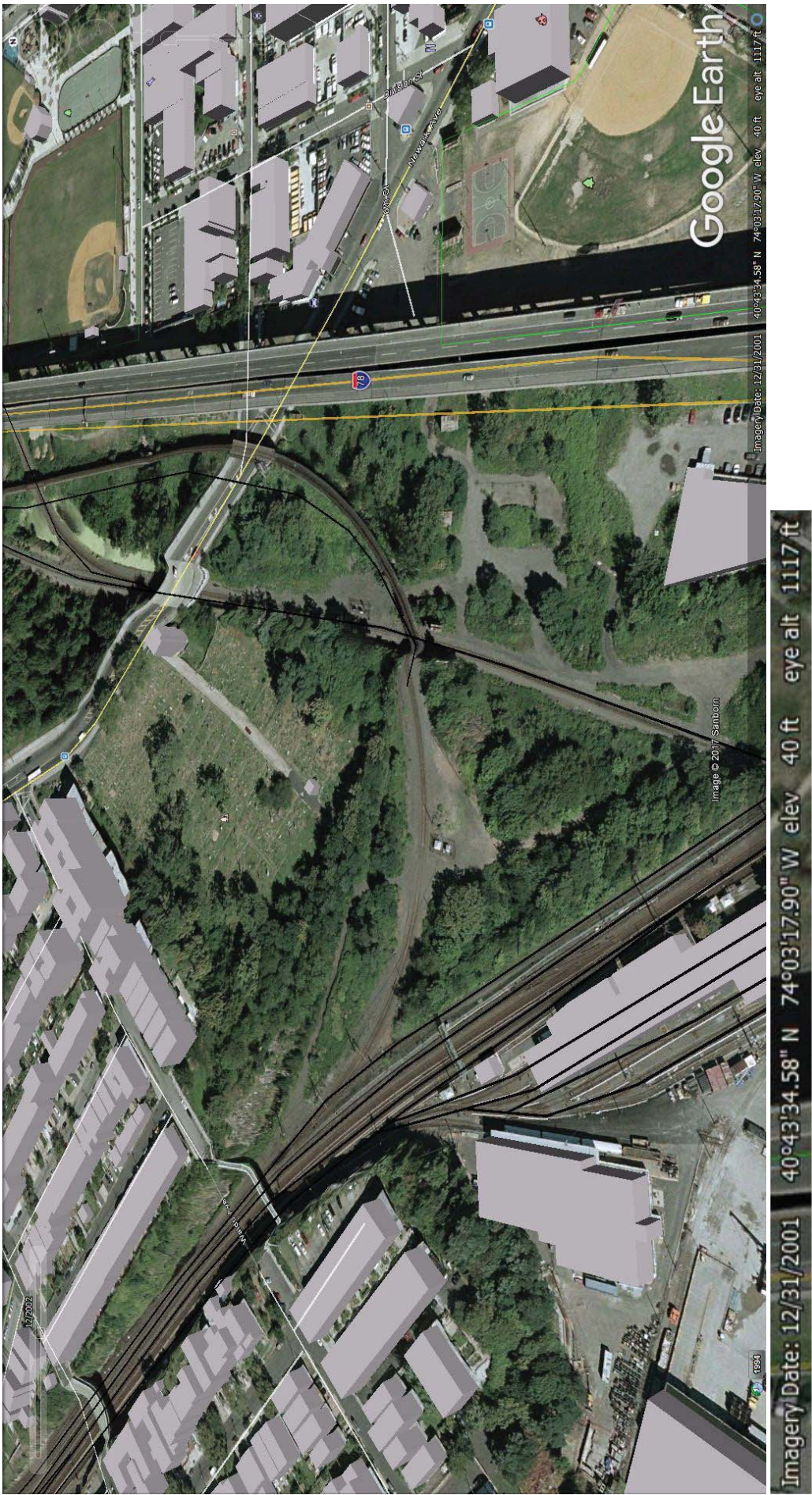
This 1994 Google Map shows the still active Harsimus Branch line, tracks running from the western-most end of the embankment structure on Brunswick Street, flying over its stanchions, across Newark Avenue and on its way past the Harsimus Cemetery traversing the River Line.



Excerpts from the 1928 Hopkins Atlas and 1994 Google Earth Survey Maps Above (rotated) are consistent in mapping the trajectory of the Harsimus Branch Line past the Harsimus Cemetery to intersect with the mainline just south of Waldo.



Harsimus Branch from Newark Ave to CP Waldo. 2001. Google Earth. Shows stanchions/piers of Harsimus Branch marching west from Newark Avenue to Palisades near intersection of the abandoned Nave/River Line, still active Conrail line (depressed) and Harsimus ROW



Harsimus Branch from Newark Ave to CP Waldo. 2003. Seven stanchions and five additional shorter structures march from the east side of Newark across Newark to the west side, then alongside Mary Benson Park toward the curve of the abandoned Nave/River Line near where it crosses an operating Conrail line (National Docks Railroad in Mill Creek area) and meets the clearly visible old rail bed of the Harsimus Branch, continuing west until the Branch meets the PATH tracks at CP Waldo.



Same as 2003 photo above including all seven extant stanchions plus the Brunswick Embankment structure to the east.



Plate 5-1 from CRID Report. This photo shows what the CRID Report is calling the New Jersey Railroad Under-grade Bridge. The structure to the left (east) once supported the Harsimus Branch on its approach to the Palisades (stone abutment at right). At the extreme right bottom corner is the 1968 Penn Central (Nave to River Line). Coalition members started our investigation into the HB on the Palisades at this spot. (See **Harsimus Branch Entry Point from Aerial Segment** photo in next series of photos_

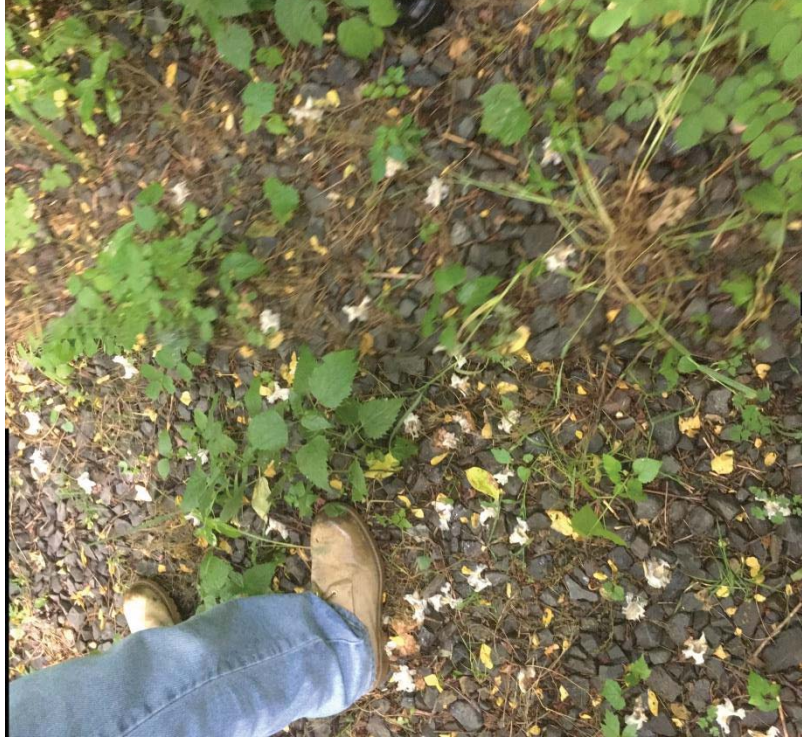


Plate 5.1: View looking along the New Jersey Railroad with a view of the western abutment of the New Jersey Railroad Under-grade Bridge The top quarter of the 1870s abutment was replaced with concrete about 1968 when Penn Central built an unrelated steel viaduct. Photo view: South

Photographer: Damon Tvaryanas Date: November 3, 2015

**Palisades Section of Harsimus Branch, Photos Taken June 14, 2017,
by Embankment Preservation Coalition Members**

Track ballast, small irregular stones that are packed between and around railroad ties, are especially useful in following the railbeds of the two lines in the area we investigated, the Nave/River Line and the Harsimus Branch, which appear to have crossed at grade. Since it is no longer used for its original purpose, this stone serves to tamp down vegetation, which is clearly less dense where the rail beds are.





In the photo at left, track (at extreme left) and tie with loose stones and metal with bolts (photograph at right) appear to be remnants of the Nave line.

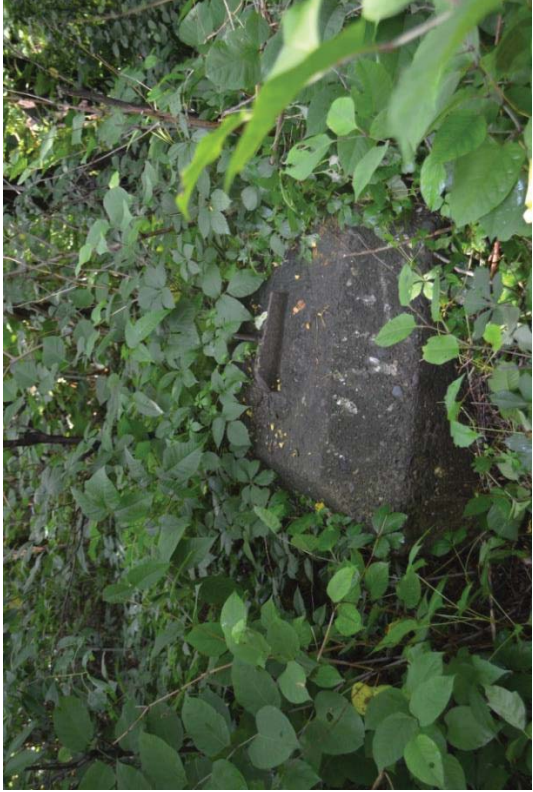
Housing for Electrical Transformers



The electrical equipment here between Nave and Harsimus Branch was presumably for managing interlocking systems.

Catenary Supports

Catenary supports, with metal attached that presumably held poles, along the Harsimus Branch rail bed. These are found for the most part in pairs on either side of the rail bed. Many are very obscured by brush and more might be found if a thorough search were conducted.





Drainage Ditch Culverts and Brick Retaining Walls



Culvert visible on south side of Harsimus Branch

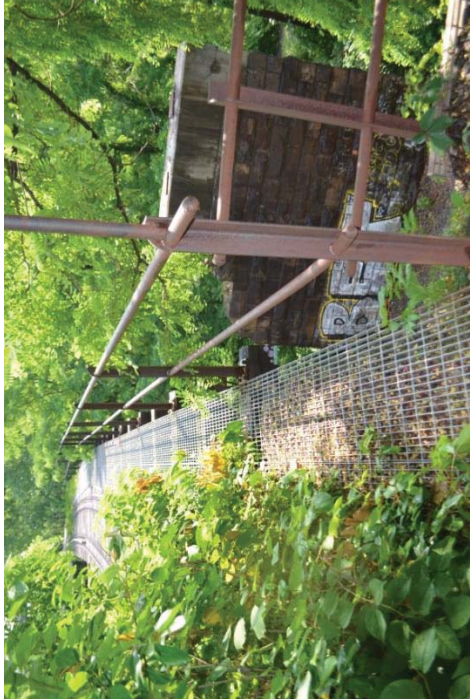


Iron culvert on north side of Harsimus Branch

Brick Retaining Walls on Drainage Ditch



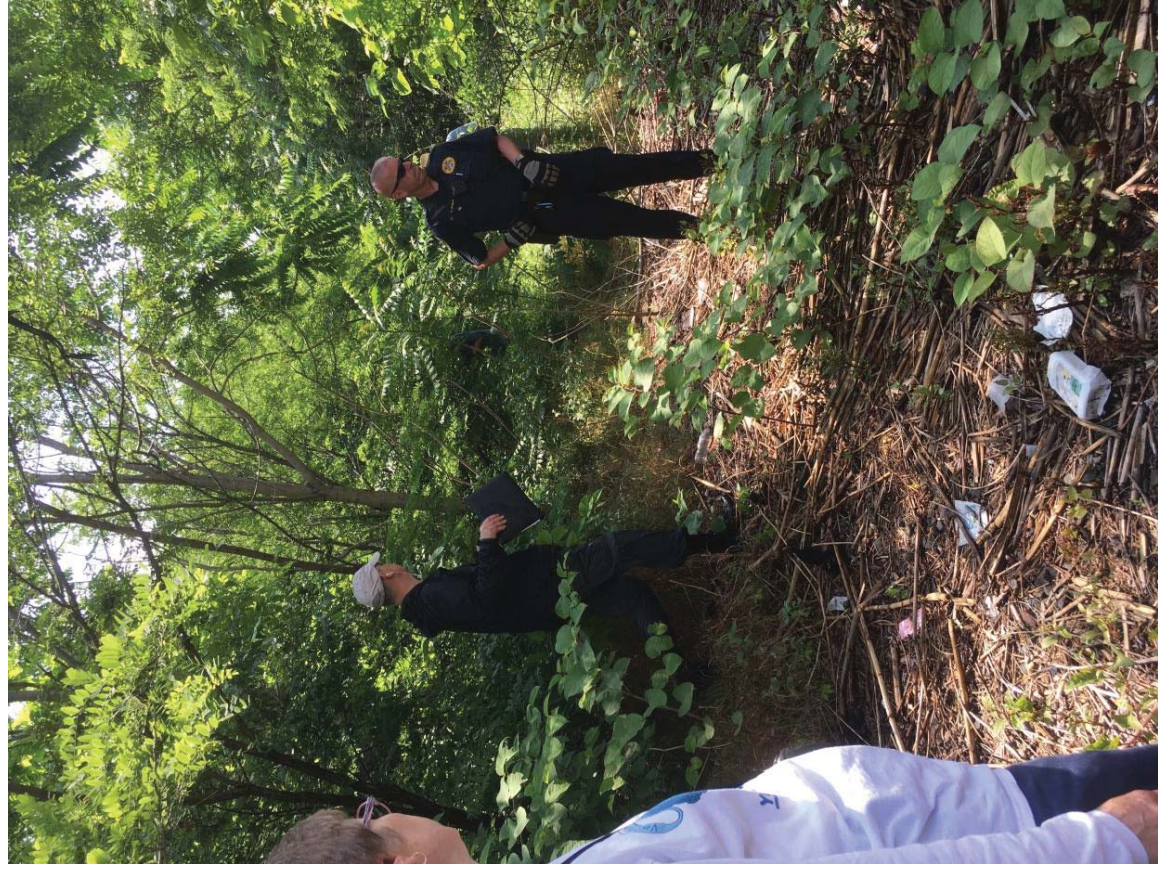
Harsimus Branch Entry Point to Palisades from Aerial Segment Stanchion



Looking east toward last Harsimus Branch stanchion before Branch meets the Palisades. To the north is Nave where it meets the Palisades.



Three views of the Harsimus Branch rail bed looking west



Harsimus Branch rail bed near intersection with PATH Train Area,
looking east



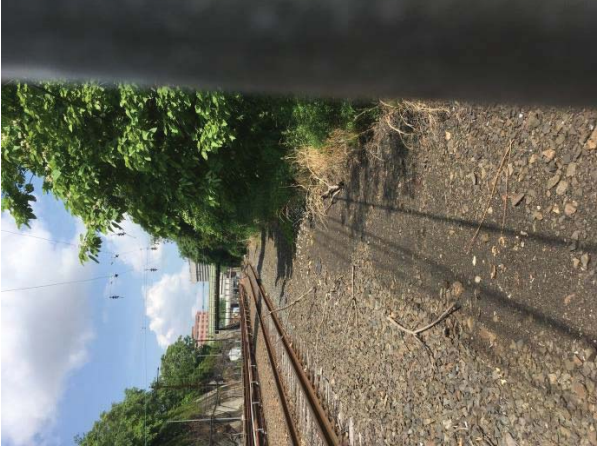
Palisades cliff face of Bergen Cut along Harsimus Branch



Harsimus Branch rail bed at
Waldo Street



Gate on Harsimus Branch at west near where it meets PATH area



Looking west from Waldo St to area
where Harsimus Branch terminates
near Chestnut Street



Looking south at rock face across Bergen Cut



Old Harsimus Branch catenary