



Surface Transportation Board
Office of Environmental Analysis Attn: Joshua Wayland
395 E Street SW
Washington, DC 20472

April 28, 2019

Re: Cultural Resources Effects Assessment Report in
CONRAIL HARSIMUS BRANCH ABANDONMENT DOCKET
AB 167 (Sub.No. 1189X)
AB 55 (Sub-no. 686X)
AB 290 (Sub-no. 306X)

Dear Mr. Wayland:

The Embankment Preservation Coalition is here providing brief comments (curtailed by the short 30-day comment period) on the *Cultural Resources Effects Assessment Report*. Comments are also being separately submitted to the Surface Transportation Board Office of Environmental Analysis on our behalf by Charles Montange, the joint federal rail attorney for City of Jersey City, Rails-to-Trails Conservancy, and the Embankment Preservation Coalition. If any comments below conflict with those of our attorney, we defer to our attorney's comments.

1. The Report completely overlooks the key direct adverse effect on the Harsimus Branch and its Embankment as well as on all historic properties in the Area of Potential Effects: the proposed loss of federal jurisdiction without restrictions.

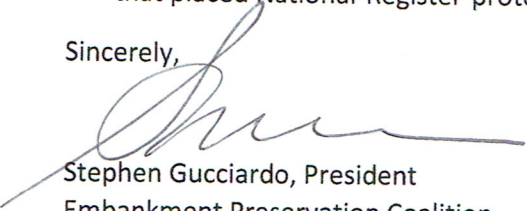
Because of development pressures in a rapidly growing Jersey City, the power imbalance favoring monied interests in our society, and, very specifically, the documented efforts of Conrail and its developer to demolish the Embankment, we believe that, with the loss of federal protections, the Harsimus Branch historic right-of-way, eligible for the State and National Register of Historic Places, will be disassembled and its stone Embankment, also eligible for the State and National Register of Historic Places, will be demolished. These extreme adverse effects (erasures of historic assets) will in turn adversely affect the integrity of other historic buildings and districts.

2. We agree with the CREAR that under a preservation scenario, no adverse effects would ensue.
3. We disagree with the CREAR that under the "no action" alternative (continued STB jurisdiction), the adverse effect of "demolition by neglect" would result. First, keeping the Branch under STB jurisdiction will prevent disassembly and development of the Branch for non-rail purposes. This is critically important for prevention of adverse impacts not only on the Branch and Embankment but also on adjoining or associated historic properties. Second, we have witnessed two decades of "neglect" by Conrail and its developer. These two decades have not resulted in demolition of the Embankment, nor do we expect that continued similar "neglect" will topple the Embankment. The structure was built to last. We believe our assessment should carry much weight because our members are first-hand observers on the ground. The Embankment Preservation Coalition was

founded in 1999 to advocate for Embankment preservation; many of our members have viewed the Embankment virtually every day for twenty years. Similarly, the Harsimus Branch right-of-way will not disappear unless unconditioned loss of federal jurisdiction enables it to be broken up.

4. We disagree with the CREAR's seemingly limited view of STB's responsibilities and authority to avoid adverse effects to the Branch.
5. Given, however, such a limited view by the STB OEA of its own authority, it is even more incumbent on the agency to engage in robust consultations during the mitigation phase of its mandated Section 106 proceedings.
6. The Embankment Preservation Coalition is engaged in settlement discussions that, if fruitful, will eventually be embodied in a Memorandum of Agreement, satisfactory to the Jersey City Historic Preservation Commission, New Jersey State Historic Preservation Office, the Advisory Council on Historic Preservation, the Surface Transportation Board, and other consulting parties. Any such MOA should both minimize adverse impacts and contain measures to mitigate those that result from a settlement. This is a complex task that will require extensive cooperation and coordination in the circumstances here, where Conrail has purported to sell the property to a developer before seeking agency authorization and thus avoid section 106 of the National Historic Preservation Act. We ask STB OEA to assist in this task.
7. If the parties cannot achieve a settlement, then mitigation must include measures to ensure that in the event the Harsimus Branch leaves federal jurisdiction, it will be subject to enforceable covenants and restrictions that require its preservation, that prevent ROW disassembly, and that preserve the entire Embankment. The agency certainly has power to preserve in light of Conrail's unlawful sale that placed National-Register-protected historic assets in jeopardy of demolition.

Sincerely,



Stephen Gucciardo, President
Embankment Preservation Coalition

on behalf of the Embankment Preservation Coalition board and the following allied and Section 106 consulting organizations whose representatives have endorsed this letter:

East Coast Greenway Alliance
Friends of Liberty State Park
Hamilton Park Neighborhood Association
Harsimus Cove Association
Historic Paulus Hook Association
Jersey City Landmarks Conservancy
Jersey City Parks Coalition
New York/New Jersey Baykeeper
The Historic Jersey City & Harsimus Cemetery
The Village Neighborhood Association
Van Vorst Park Association