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March 30, 2017

Victoria Rutson, Director
Office of Environmental Analysis
US Surface Transportation Board
395 E Street, SW
Washington, DC 20423

**RE: Harsimus Branch Abandonment; Historic Review
STB Docket No. AB-167-1189-X**

Dear Ms. Rutson,

By letter dated March 6, 2017 Christina Donnelly, the Secretary of the Embankment Preservation Coalition, wrote to you. Her letter and its enclosures have recently appeared on the STB website under the category of Environmental Correspondence. As a commenting party we wish to address issues raised by that submission.

A review of the many, many comments from all over the world, collected through the means of a posting on change.org shows that the commenters have been led to believe, or simply wish to believe, that the Surface Transportation Board has the power and authority, and in their view the obligation, to buy these privileged residents of Jersey City a park. Over a thousand comments repeat this request over a thousand times. If the repetitive nature of the comments establishes anything, it is that they want to be given a park, in their neighborhood, as a refuge against perceived evils of over-development.

We understand what they are saying, but must disagree with them for several reasons. Their quarrel is with the City of Jersey City on a number of fronts. First, the City, not the STB, has the authority to create parks in Jersey City, but it has not done so.

Instead, it has merely placated these citizens by questionable arguments made through their joint legal counsel that the STB should order the seizure and transfer of our clients' property, without just compensation, to the City, which would then presumably fund the construction of a park. The absence of any City efforts to create a park since 2005 strongly suggest that the City's priorities lie elsewhere, and that this protracted Harsimus litigation is both less expensive, and more appealing politically to the City, than actually building a park.

Our second disagreement with the commenters is that there is a misunderstanding, willful or otherwise, about historic preservation, what it means, and how it is implemented. The purpose of the historic process is not to thwart change, but to find a reasonable balance where competing interests can be reasonably accommodated. Here again, the commenters appear to be at odds with the policies of the City, and seek no accommodation of competing interests, including the interests of our clients who own the Embankment property. Our clients are property owners, not a developer of high-rise housing in Jersey City, and hold no permits to develop any of the Embankment, much less demolish it, yet the Embankment Coalition put the following statement in its [change.org](https://www.change.org) petition:

In contrast to the City's plans, limited liability companies, which hold deeds prematurely conveyed before the required abandonment authority was obtained, proposed disassembly of the Branch and demolition and replacement with luxury residential units.

In fact, the City has exercised zoning authority to permit development on at least some of the Embankment, but has withheld approvals of every kind. The commenters seem to vehemently oppose all development of any kind - particularly nearby development consistent with the City's zoning - and characterize it in harsh terms, referring to "condos" as some sort of urban blight. In fact, they are at odds with the City once again. While there is no approval by Jersey City for any development on the Embankment, making it a singular exception, it is Jersey City that has repeatedly approved tens of thousands of new residential units under its various redevelopment plans. Those City-approved units are a principal focus of the commenter's ire. By

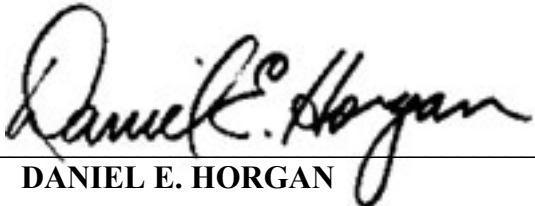
encouraging the sort of public outcry and agitation represented by the current submissions, the Embankment Coalition, and at various times the City, have attempted to misdirect local dissatisfaction with City policies onto our clients, and are thereby misusing the historic review process and the concept of historic preservation as a distraction. The [change.org](#) submission does little, if anything, to inform historical review; but, it does raise the question of why there is so much adjacent development when so many vociferous residents (and others from around the country and around the world) are so strongly opposed?

Finally, and in addition to the foregoing, we urge you to measure the quality, not the quantity, of the Embankment Coalition's submitted comments. We believe that when you do so, you will see that nothing presently said hasn't been said before in these proceedings, usually many times over. Having reached out to people from around the country and around the world, the Embankment Coalition has said nothing new. It has only illustrated its own improper purpose and unwillingness to balance its interests with those of our clients. We respectfully suggest that the [change.org](#) submission be judged on its lack of substance and not its multitude of voices. Submitting the same thing, again and again, is certainly not called for under the National Historic Preservation Act, especially when these commenters have expressed themselves so thoroughly. We also respectfully urge you to move the historic review process along so that you may reach the true merits of this matter. Thank you.

Very truly yours,

WATERS, McPHERSON, McNEILL, P.C.

BY:



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