

Re: STB OEA Draft Supplementary Environmental Assessment for the Harsimus Branch AB-16

The Harsimus Cove Association is a neighborhood association that was formed in 1999 to promote the common good and well-being of the residents of the Harsimus Cove area. The Association encompasses the National Historic District of Harsimus Cove, which borders the Harsimus Branch, known locally as The Embankment, a National Register-eligible site that is also eligible to be part of the Harsimus Cove and Hamilton Park National Historic Districts. Unlike other historic districts Downtown, Harsimus Cove is without a park, and its residents have long looked forward to the City's acquiring the site for family and public recreation and education.

In a 2009 Environmental Assessment, the Surface Transportation SEA (now Office of Environmental Assessment) denied its responsibility under NEPA to thoroughly assess potential harmful environmental effects of Harsimus Branch abandonment. Numerous environmental comments from the public, aware of the great stakes involved in what was then imminent loss of the Harsimus Branch and remains threatened today, called for an Environmental Impact Statement, but those requests were turned down. Instead of complying with the purpose of NEPA and NHPA and the wide public interest, the agency appeared in its documents and a public meeting to be defending the unlawful actions of Conrail, a company it regulates, as well as favoring its own narrow interests and precedents in noncontroversial cases in limiting the scope of its assessment.

Despite the status of the Harsimus Branch as a rail line, despite evidence that Conrail knew or was willfully blind to this fact when it unlawfully sold Embankment property to a private developer in the face of stated City interest in the property, despite the developer's pursuing land use and demolition applications of a still-regulated rail line, and despite Conrail's joining with the developer in such applications, the 2009 EA defended Conrail; ignored the implications of the unlawful sale; misleadingly stated that the City of Jersey City could have purchased it; narrowed its own obligations under NEPA to an extent that made the purpose and scope of a NEPA review meaningless; and did not substantively explore harmful impacts that an abandonment without conditions would have on the environment. It sought to avoid federal responsibility by leaving responsibility for the public welfare and the environment to local authorities.

The 2009 EA concluded "...there are no potential environmental impacts from ... salvage." "No air emissions...because salvage has already occurred."

The Draft Supplementary Environmental Assessment, issued in September 2020, maintains the same posture.

Even under its own definitions, the DSEA should examine the salvage implications of the massive stone and earthen Embankment and the remaining historic structures along non-Embankment portions of the Branch. Soon after transfer of deeds from Conrail to the developer LLCs, the developer immediately destroyed a stanchion at Brunswick Street. As this abandonment process was in motion the LLCs attempted to sell the stone to the City of Hoboken. Evidence in the record that Conrail and the developer jointly applied for demolition permits, as well as continued LLC interest in developing the property, suggests that this structure will be removed in the most likely development scenarios.

The original EA stated “it remains uncertain how this property would be used following its abandonment.” And the DSEA maintains this position. But OEA’s responsibility under NEPA is to lay out *potential* adverse effects of abandonment, and there are many reasonably likely adverse effects already pointed out in the 2000 environmental comments sent to the agency and in the briefs filed by City of Jersey City, Rails-to-Trails, and the Embankment Preservation Coalition. The OEA documents use the fait accompli of the sale to avoid looking at them, much less taking a “hard look.”

We will note a few of the significant adverse effects that removing the historic and environmental resources from federal protection, without conditions, will likely have on our community and/or City and/or region:

- Destruction of National-Register historic districts and sites
- Cultural impoverishment of the National Historic Districts of Harsimus Cove and Hamilton Park as well as the NR-eligible Catholic Immigrant Historic Churches District and individual NR sites by the erosion of their context
- Foreclosure of long-standing plans to site the East Coast Greenway along the transportation corridor
- Loss of open space, forest, and habitat unusual in an urban area along the corridor
- Loss of a massive rain sink in a flood plain, at the very time Jersey City must address a federal mandate to comply with the Clean Water Act in regard to stormwater and combined sewer outflows running into and contaminating waterways
- Loss of the potential for the Harsimus Cove neighborhood to have a park
- Foreclosure of the potential for light rail or similar future transportation from Journal Square to the waterfront

Previous comments on all sorts of other likely environmental effects, including diminished air quality by loss of oxygenating vegetation, more carbon released into the atmosphere from the removal of soil, increased traffic, noise, dust, heavy truck traffic, etc. from demolition, should be given the serious attention they deserve.

Homeowners and residents within our association have homes whose lots are bounded by the Embankment. Some have garden structures abutting the walls. Their peace, enjoyment, and property values will be adversely affected by demolition and development of the Embankment.

Of special concern at a time when social justice issues are being confronted nationally is the lack of significant effort by STB OEA to identify Indian tribes with an interest in this abandonment, especially since Lenape fishing tools were recently discovered in the Harsimus Cemetery abutting the Branch. The outreach attempt documented in the earlier EA cites a web site that no longer exists¹; no outreach seems to have been done to New Jersey’s DEP on this subject.

We also support the comments filed by the City of Jersey et al. In response to the DSEA.

¹ “Pursuant to 36 CFR 800.2, SEA conducted a search of the Native American Consultation Database at <http://home.nps.gov/nacd/> to identify Federally-recognized tribes which may have ancestral connections to the project area. The database did not identify any tribes that may have an interest in the proposed abandonment.”