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July 5, 2013

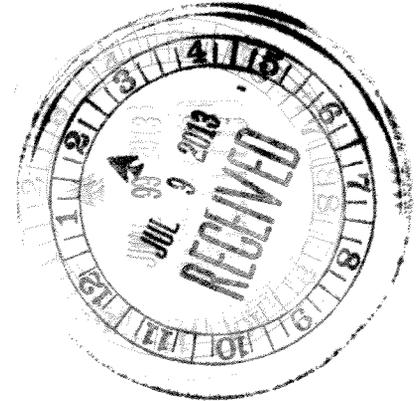
VIA FEDERAL EXPRESS

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20024

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Office of Proceedings

JUL 09 2013

Part of
Public Record



Re: STB Docket No. FD 35745
New Jersey Association of Railroad Passengers
Petition for Declaratory Order – Princeton Branch

Dear Ms. Brown,

Enclosed please find an original and ten copies of a pleading for filing in the above-captioned matter.

Please add and Charles H. Montange and Virginia Kerr to the service list in this proceeding. Kindly also time stamp the extra copy of the pleading and return it to Mr. Montange in the pre-paid envelope provided.

Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Virginia Kerr'. The signature is written in black ink and is positioned above the typed name.

Virginia Kerr, Esq.
Attorney for Save the Dinky, Inc.

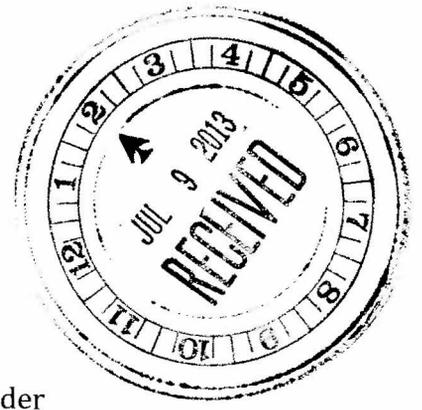
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cc: Eric Hocky – by fed ex/w encls.
James Weinstein - by fed ex mail/w encls.
Kenneth Worton – by fed ex/w encls.
Peter McDonough –by fed ex/w encls.

234513

Before the
Surface Transportation Board

New Jersey Association of Railroad Passengers , et al --)
Petition for Declaratory Order --) F.D.. 35745
Princeton Branch)



Comment/Reply/Joinder in Petition for Declaratory Order
On Behalf of Save the Dinky, Inc.

Save the Dinky, Inc. ("SDKY"), comments, replies and joins in the Petition for Declaratory Order filed on behalf of New Jersey Association of Railroad Passengers, et al. ("NJARP").

SDKY is a New Jersey non-profit corporation comprised of members who include users of the Princeton Branch, as well as local residents who appreciate and support retention of the Branch and structures on the Branch for historic preservation purposes, as protected by section 106 of the National Historic Preservation Act, 16 U.S.C. 470f.¹ SDKY and its member-supporters, whom it represents here, would be injured by the failure of New Jersey Transit (NJ Transit) to comply with applicable STB abandonment authorization requirements, including section 106, the National Environmental Policy Act, and other public interest statutes that are applicable in a federal rail abandonment proceeding.² SDKY's interest is further manifest in its participation in state court litigation in New Jersey, including state court litigation contesting NJ Transit's apparent effort with Princeton University to abandon a portion of the Princeton Branch, including a rail station protected under section 106, without first obtaining any authorization from the Surface

¹ See, e.g., A. Garoniak Aff. (Exhibit A); A.W. Neumann Aff. (Exhibit B)

² See note 1 supra.

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Transportation Board (STB).³ SDKY accordingly has a clear interest (and standing) to participate in this proceeding.

While the Board has broad discretion in deciding whether to institute a declaratory proceeding (see Desertxpress Industries -- Pet. Dec. Order, F.D. 34914, served June 27, 2007, slip at 3), that authority should be exercised here. NJ Transit and Princeton University are acting unlawfully to abandon a key segment of the line (including the end of the line, containing a section 106 asset) without this Board's prior authorization. This Board has stated in a recent policy statement [Consummation of Rail Line Abandonments That Are Subject to Historic Preservation and Other Environmental Conditions, 73 Fed. Reg. 22002-04 (April 23, 2008)] that it will discharge its responsibilities under section 106 in the abandonment context when railroad owners attempt to evade its jurisdiction. At the very least, there is uncertainty over the scope of the Board's jurisdiction in respect to the abandonment of all or a segment of the Princeton Branch. The criteria stated in cases like Desertxpress for initiation of a declaratory proceeding are thus clearly met.

On the merits, SDKY supports the Petition for Declaratory Order filed on behalf of NJARP for the reasons stated in the Petition⁴ and the additional reasons expressed below.

I. Freight Rail Line

The NJARP Petition provides considerable factual background, which SDKY sees no need to repeat here. But it also is relevant to point out that the Princeton Branch at issue in this declaratory proceeding is also a freight rail line, albeit currently inactive, with extant

³ Id., A.W. Neumann Affidavit, para 10; A. Garoniak Affidavit, para. 12.

⁴ Assuming arguendo that the Princeton Branch were somehow only subject to passenger common carrier obligations, it nonetheless is covered by STB jurisdiction. See Desertxpress Enterprises -- Pet. Dec. Order, F.D. 34914, served June 27, 2007, reopening denied, F.D. 34914, served May 7, 2010.

freight common carrier obligations upon it. In particular, the Branch was used for freight rail purposes prior to its conveyance to Conrail in 1976.⁵ It is well established that no freight rail line may be abandoned in the United States without a prior authorization from the ICC or STB. See, e.g., 49 U.S.C. 10903 (ICCTA); Colorado v. U.S., 271 U.S. 153 (1926). Despite a diligence search, there is no record that the line was authorized for abandonment prior to its conveyance to Conrail.⁶

The 3-R Act grants ICC (now STB) regulatory jurisdiction over all property conveyed to Conrail. Under section 304(e) of the 3-R Act, 45 U.S.C. 744(g), Conrail could not abandon any rail properties for two years, and then only subject to ICC (now STB) abandonment authority under the Commerce Act, now the ICC Termination Act. Conrail was the regulatory corporate successor to its bankrupt predecessors on all rail properties deeded to it; nothing immunized Conrail from ICC (now STB) regulation. See, e.g., Consolidated Rail Corp. v. ICC, 590 F.2d 937, 941 (D.C. Cir. 1978); Illinois v. Consolidated Rail Corp., 589 F.2d 1327, 1333 (7th Cir. 1978) (45 U.S.C. 744(g) "prescribes normal ICC regulatory procedures with respect to the abandonment of service under the FSP"). Indeed, in Brown v. Consolidated Rail Corp., 422 F.Supp. 1251 (N.D. Ohio 1976), a district court enjoined Conrail from abandoning trackage to a dock because that necessarily was a line which could not be abandoned without ICC approval as required under the 3-R Act. Here, despite a diligent search, there is no record that Conrail ever sought or received abandonment authority for freight common carrier obligations for the Princeton Branch line.⁷

⁵ Allen Affidavit, p.1, attached as Exhibit C.

⁶ Id.

⁷ Id.

As recounted in the NJARP Petition, by a deed executed on June 26, 1984, but whose stated effectiveness was April 1, 1976, Conrail conveyed the Princeton Branch to the State of New Jersey, acting by and through the commuter operating agency of the New Jersey Department of Transportation (NJDOT). See NJARP Petition, Exhibit B, p. 6. Backdating the effective date to April 1, 1976, is puzzling. This rather strange formulation apparently reflects the fact that New Jersey Transit (NJ Transit, the commuter operating agency of NJDOT) did not exist in 1976. Conrail operated the line from 1976 until 1983, when New Jersey Transit took over transit operations. It is not clear to SDKY why the deed provides for retroactive effectiveness, and one wonders at what legal consequence the parties sought to address (leaving aside whether they could possibly accomplish anything by attempting a retroactive title transfer). One possible explanation is that the retroactive effectiveness claim was somehow to support an argument that the State of New Jersey acting through its Department of Transportation bears all the relevant common carrier obligations as to the line. If this is the explanation, then SDKY takes no umbrage, for we at this time are prepared to accept that all common carrier obligations for the Princeton Branch were supposed to be assumed by NJDOT, as the party extending the subsidy that induced Conrail to exercise the option to acquire the line, with the further intent of transferring the line by sale or lease to NJDOT. However, this does not mean that any common carrier obligations were extinguished when Conrail acquired the line pursuant to the subsidy arrangement with NJDOT. It only means that the party subsidizing Conrail (here, NJDOT) incurred them. But there is no record that the New Jersey Department of Transportation either sought or obtained an abandonment authorization for the freight common carrier obligations for the line, any more than there is a record that Conrail did.

At this time, NJ Transit actively uses the Princeton Branch, including the Princeton Station, for interstate passenger purposes. SDKY concurs in the argument in the NJARP Petition showing that the line is nonetheless a facility subject to this agency's abandonment jurisdiction. However, even if NJ Transit made no use of the line, or only used the line for passenger purposes, this still does not obviate the agency's responsibility to comply with this agency's jurisdiction over the line arising from prior freight common carrier use. There is no exemption, exception, exclusion, or other "king's ex" that immunizes the owner of this line from this Board's regulation of the unextinguished freight rail obligations on the Princeton Branch.

The fact (if it is a fact) that NJ Transit may have acquired the line for passenger purposes does not mean that the freight common carrier obligation vanishes or can somehow be deemed abandoned through non-use without any ICC or STB abandonment authorization. ICC and STB have repeatedly ruled that a public agency acquiring a line subject to freight rail obligations acquires the line subject to those obligations.⁸ Absent prior arrangement (generally in the form of the selling common carrier railroad retaining a freight rail easement and sufficient control of dispatch for freight purposes), the agency becomes a common carrier for freight itself.⁹ In short, if a public entity accepts a deed to a line with extant freight common carrier obligations, it acquires those obligations; the line remains subject to the jurisdiction of the STB for rail abandonment purposes.

⁸ City of Austin, Texas—Acquisition—Southern Pacific Transportation Co., Fin. Docket No. 30861(A), 1986 WL 1166762 (ICC Nov. 4, 1986); Orange County Transp.-- Exemption-- Atchison, T.&S.F. Ry. Co., 10 ICC2d 78 (1994). See also Staten Island Rapid Transit Operating Authority v. ICC, 718 F.2d 533 (2d Cir. 1983), aff'g Bhd of Locomotive Engineers v. Staten Island Rapid Transit Operating Authority, 360 ICC 464 (1979).

⁹ Accord, Maine DOT -- Acq. & Op Exemption, Maine Centr. R.R., 8 ICC2d 835 (1991).

Princeton University has purported to acquire the segment of the Princeton Branch containing the historic station, subject to retained rights of NJ Transit to use the trackage for transportation purposes. But Princeton University asserts that its contract with NJ Transit allows it to require NJ Transit to abandon the segment so the University can develop the property for non-rail purposes. If the University's contract with NJ Transit gave the University such control over the segment, then the University now arguably has common carrier status as to that portion of the line. The point is that the University's contract cannot override this Board's jurisdiction; the contract instead may make the University subject to this Board's jurisdiction due to the University's claimed contractual control of the line.

In sum, neither NJ Transit nor the University can contend that non-use for freight results in a de facto abandonment. Even if a rail line has not been used for freight for many years, the need to obtain an STB abandonment authorization remains. STB does not recognize de facto abandonment as supplanting the need for an STB abandonment authorization,¹⁰ and the courts have consistently upheld STB's view. *See, e.g., Phillips v. Denver & R.G. RR*, 97 F.3d 1375, 1377(10th Cir. 1996)) ("[i]f de facto abandonment were

¹⁰ E.g., Chelsea Property Owners -- Abandonment, 8 ICC 773 (1992), aff'd sub nom Consolidated Rail Corp v. ICC, 29 F.3d 706 (D.C. Cir. 1994) (rejecting claims that dead end branch became exempt spur due to 15 years non-use, in the context of an elevated Conrail line in Manhattan). The line at issue in Chelsea Property is now the immensely popular "High Line," a mile-long linear park in New York City, frequently featured in the NY Times, e.g., NY Times, Aug 2, 2012, p. D1 ("Home"). See also Old Colony Railroad Co. et al Trustees Abandonment, 224 ICC 681, 682-83 (1938) (railroad may not reduce a line to spur status without prior ICC [now STB] abandonment authority); Allegheny Valley Railroad -- Petition for Dec. Order, F.D. 35329, Decision served June 15, 2010 (Conrail trackage does not lose status as a line through non-use or spur use), quoting Atchison, T & S.F. -- Abandonment Exemption -- Lyon County, KS, AB 52 (Sub-no. 71X), slip op. at 3 (ICC, served June 17, 1991) (railroad may not avoid ICC/STB abandonment authority by reclassifying a line as a spur); CSX Transportation -- Ab. Ex. -- in Monroe County, IN, AB 55 (Sub-no 702X), served August 12, 2010 (example of railroad seeking abandonment authority in order to reclassify a line).

sufficient to establish abandonment ..., a railroad could easily circumvent ICC's oversight and regulation by simply terminating its use of the railroad line"). It is settled law that a railroad may not change the regulatory status of a line by a claimed internal reclassification, or by changing what it chooses to name or rename the property, or by non-use for freight.¹¹ If the situation were otherwise and de facto abandonments somehow became lawful, railroads (and real estate developers) might be tempted to engage in unlawful sales of rail lines and rip out structures protected by, inter alia, section 106 of the National Historic Preservation Act, 16 U.S.C. 470f, and then claim a de facto abandonment to escape STB jurisdiction and the federal law protecting the public's interest in our nation's rail assets.

II Section 106 and Environmental Obligations in the Abandonment Process

The portion of the Princeton Branch which NJ Transit (albeit at the instigation of Princeton University) is seeking to abandon (for conversion to non-rail purposes) includes the Princeton Railroad Station. As NJARP has indicated, Princeton University, without prior authorization from ICC, purported to purchase the segment of the line in question in 1984 subject to New Jersey Transit's operating rights, oversight authority, and a reserved public transportation easement. See NJARP Petition, Exhibit I. Princeton University intends to cause the segment of line and station facility it purported to purchase to be converted to non-rail use (abandoned). The University claims a right to cause this

¹¹ See Nicholson v. ICC, 711 F.2d at 368 & n. 12 (name given to a line by a railroad is not controlling concerning whether the property is a line); Old Colony Railroad Co. et al Trustees Abandonment, supra, 224 ICC at 682-83 (1938) (railroad may not reduce a line to spur status without prior ICC [now STB] abandonment authority); Honey Creek Railroad -- Petition, STB F.D. 34869, served June 4, 2008, slip op. at 6 (no de facto abandonment); Allegheny Valley RR Co. -- Petition, STB F.D. 35239, served June 14, 2010, slip op. p. 9 (abandonment authorization necessary).

abandonment through exercise of an alleged contractual right to move the train terminus. However, abandonment of this segment of the Princeton Branch involves a rail station listed on the National Register, and should trigger the application of section 106 as well as potential review under other rubrics, including environmental impact review. In particular, the segment in question includes the Princeton Station, which was placed on the New Jersey Register of Historic Places on March 17, 1984, and on the National Register of Historic Places on September 29, 1984. See NJDEP-Historic Preservation Office, New Jersey and National Registers of Historic Places, ID 1742, Mercer County, http://www.nj.gov/dep+/hpo/1identify/nrsr_lists/mercer.pdf. In addition, the Princeton Railroad Station was surveyed as contributing property to the Princeton Historic District. The District was placed on the New Jersey Register of Historic Places on October 29, 1973, and on the National Register on June 27, 1975. See NJDEP - Historic Preservation Office, New Jersey and National Registers of Historic Places, ID 1741, Mercer County, http://www.nj.gov/dep/hpo/1identify/nrsr_lists/mercer.pdf. If the Princeton Branch is a line of railroad subject to STB jurisdiction, which it clearly is, then STB is responsible to ensure compliance with section 106 of the National Historic Preservation Act before that line or a portion thereof may be lawfully abandoned. See Friends of the Altgen-Susquehanna Trail v. STB, 252 F.3d 246 (2d Cir. 2001). This obligation currently is noted on the STB website.

Upon occasion, railroads evade compliance with section 106 and other environmental statutes in federal licensing proceedings, including federal rail abandonment proceedings, by failing to seek a required federal license until property protected by section 106 has been sold off and /or destroyed. They then take the position the damage was irrevocable

or no longer within their control and immune from environmental and historic analysis. In other instances, railroads (as here) avoid the section 106 process by failing to seek any abandonment authorization. STB addressed this matter in a policy statement:

In some cases railroads have taken actions affecting rail property without first seeking abandonment authority. When this occurs on inactive lines, we generally do not discover these actions until after the fact when the carrier seeks abandonment authority. Such actions are unlawful. Not only is the rail line unlawfully severed from the national transportation system when this occurs, but the Board's ability to carry out its obligations under NEPA and NHPA may then be adversely affected. The Board will continue to carry out its obligations under those statutes and will take whatever steps necessary to enforce compliance with them. Railroads that take such actions may find not only that obtaining abandonment authority is delayed, but that the Board will require historic preservation training for the railroad's staff members who are involved with abandonment projects and require the railroad to document the in-house measures that it will implement to prevent such actions from occurring in the future. Other possible actions the Board may take include restricting the railroad's future ability to employ expedited procedures to obtain abandonment authority, imposing a financial penalty, and seeking a legal remedy against the railroad in a court of law.

Consummation of Rail Line Abandonments That Are Subject to Historic Preservation and Other Environmental Conditions, 73 Fed. Reg. 22002, 22004 (April 23, 2008).

In order to ensure that the agency discharges its obligations under section 106 and other environmental laws, STB should determine whether the Princeton Branch is a line within its jurisdiction at this time. If STB so determines, then NJ Transit and the University should cease their action to abandon and to dismantle the end of the line until this agency grants abandonment authority (if this agency does) and then only after compliance with section 106 and other applicable remedial statutes.

III. Reservation Concerning Possible Need for a Stay

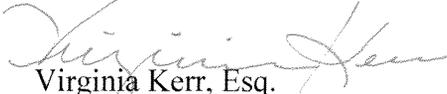
NJ Transit and Princeton University should be deemed on notice that any abandonment of the line or any portion thereof without prior STB authorization is void or voidable, that actions taken pursuant to a sales contract (particularly dealing with a sale that was not authorized by the agency) cannot result in a lawful de facto abandonment, and that neither NJ Transit, Princeton, or anyone else should dismember the line, salvage the line, remove the Station, or take any other actions that prejudice the environmental process for this line. It is SDKY's understanding that NJ Transit's board convened on Tuesday, June 25, to authorize its managers to proceed with various transfers of NJ Transit's property interests to Princeton University, including the portion of the line containing the historic Station, , in order to facilitate University development plans. As noted, those plans include dismantling the station infrastructure and excavating adjacent areas that provide parking and pedestrian access to the station. This would prejudice the environmental process in any subsequent proceeding. If NJ Transit and Princeton persist in this regard, SDKY reserves the right to seek a stay, so that this Board can "continue to carry out its obligations" pending a resolution of the line status of the Princeton Branch..

IV. Conclusion

For the reasons stated in the NJARP Petition and herein, this Board not only (1) should initiate the declaratory proceeding sought by NJARP concerning the status of the Princeton Branch as a line subject to this Board's jurisdiction, but also (2) should find that the property was and remains a line so subject.

Respectfully submitted,


Charles H. Montange
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V.P. and General Counsel for Save the Dinky, Inc.
124 Jefferson Road
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(609) 252-0125
E-mail: vakerrlaw@verizon.net

Attorneys for Save the Dinky, Inc.

Attachments:

Exhibit A: Garoniak Affidavit;

Exhibit B: Neumann Affidavit

Exhibit C: Allen Affidavit

Dated: 7/5/2013

Exhibit A

**Before the
Surface Transportation Board**

New Jersey Association of Railroad Passengers, et al—))
Petition for Declaratory Order –) F.D. 35745
Princeton Branch)

AFFIDAVIT OF ANITA GARONIAK

I, Anita Garoniak, being of full age, and duly sworn according to law, upon my oath hereby depose and say:

1. My name is Anita Garoniak, and I reside at 1 Harris Road in Princeton, New Jersey.
2. I am the President of Save the Dinky, Inc., a New Jersey non-profit corporation with a mission to preserve Princeton, New Jersey's historic station and rail link to Princeton Junction through education, advocacy, and other activities consistent with its status as a non-profit entity.
3. *Save the Dinky* grew out of a citizens' organization formed in 2010 to advocate to preserve the Princeton Branch ("Dinky") rail link to Princeton Junction and to oppose a proposal to replace the line with a bus rapid transit (BRT) system. The BRT proposal was dropped, but Princeton University continued to press forward with plans to require New Jersey Transit to move the Princeton Branch terminus southward and remove track to create an access road to an employee parking garage. New Jersey Transit acquiesced, maintaining that it was obligated to do so under the terms of a 1984 agreement by which it sold the station complex and land to the University while retaining a public transportation easement and operating rights. *Save the Dinky* has advocated against the plan because it will destroy an invaluable in-town terminal station and rail link to Princeton Junction that many in our community rely upon on a daily basis.
4. *Save the Dinky* incorporated in January 2012 and continues its educational and advocacy work to preserve the historic station and right-of-way.

5. *Save the Dinky* currently has over 500 supporters/members who signify support by joining our mailing lists and/or participating in petition drives. We maintain a website, www.savethedinky.org, and supply on it information documenting the history of the Princeton Branch and our efforts to preserve it, along with research materials on such issues as walking distance.

6. The Princeton Railroad Station is located on University Place in Princeton where it provides convenient pedestrian access to many Dinky riders, convenient parking for others, and a convenient drop-off for passengers who arrive by car or shuttle.

7. The Princeton Railroad Station was listed on the New Jersey Register of Historic Places on March 17, 1984 and on the National Register on September 29, 1984, shortly before the New Jersey Transit sale to Princeton University.

8. *Save the Dinky* supporters include individuals who use the Princeton Branch to travel into and out of Princeton to Princeton Junction and points beyond for jobs, recreational, educational, and other purposes. Many supporters use the Princeton Branch for travel out of state to New York or for travel to Newark airport for flights to other states and overseas.

9. *Save the Dinky* supporters also include many individuals who value the Princeton Railroad Station not only for its convenience but also because of its long associations with Princeton cultural and political history. A number of *Save the Dinky* supporters live in the Princeton Historic District.

10. I have purchased tickets to New York City and to Newark Airport at the Princeton Railroad Station and have used the Princeton Branch to travel to Princeton Junction for trains to New York City or for trains to Newark Airport for flights out of the country.

11. I have lived in New Jersey all of my life, and I value New Jersey's historic resources. I have lived in Princeton since 1984, and since that time have been involved in various efforts to promote development that respects historic neighborhoods, the environment, and sound transportation policy. The Princeton Railroad Station and the Princeton Branch line are critically important assets that should be maintained for public transportation use.

12. *Save the Dinky* is a plaintiff in state court litigation that aims to preserve the Princeton Branch and historic station, including In Re: Princeton Railroad Station Track Removal Project, Princeton Railroad Station, Mercer County, Borough of Princeton, an appeal now pending in the New Jersey Superior Court Appellate Division, Docket No. A-005145-1T1. This appeal challenges a decision by the New Jersey Department of Environmental Protection Assistant Commissioner for Natural and Historic Resources authorizing New Jersey Transit to abandon 460' of the transportation easement at the north end of the Princeton Branch Railroad. The DEP ruling will enable Princeton University to dismantle the historic station infrastructure, develop the buildings for food service, and incorporate the complex into its campus. It is my understanding that *Save the Dinky*, through its counsel, has argued in this appeal that the proposed project requires federal Section 106 review.

13. It is also my understanding that the STB abandonment process affords opportunities for preservation organizations and affected individuals to advocate for preservation of vital rail assets


Anita Garonjak

Sworn and subscribed before me
on this 28th day of JUNE
2013

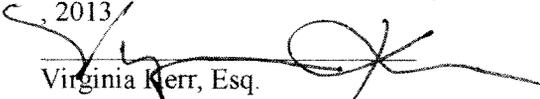

Virginia Kerr, Esq.
Attorney at Law, State of New Jersey
124 Jefferson Road
Princeton, New Jersey 08540

Exhibit B

Before the
Surface Transportation Board

New Jersey Association of Railroad Passengers, et al—)
Petition for Declaratory Order –) F.D. 35745
Princeton Branch)

AFFIDAVIT OF ANNE WALDRON NEUMANN

I, Anne Waldron Neumann, being of full age, and duly sworn according to law, upon my oath hereby depose and say:

1. My name is Anne Waldron Neumann.

2. I reside at 22 Alexander Street in Princeton, New Jersey in the Mercer Hill Historic District and in the Princeton Historic District that was listed on the New Jersey Register of Historic Places in 1973 and on the National Register in 1975.

3. I am a member of Save the Dinky, a New Jersey Non-Profit Corporation, a citizens' organization with a mission to preserve the historic Princeton Railroad Station and Princeton's historic rail link to Princeton Junction.

4. I also have been a member of Princeton's Environmental Commission, a member of Princeton's Site Plan Review Advisory Board, and chair of the former Princeton Borough's Affordable Housing Commission. I am strongly committed to social and economic as well as environmental sustainability.

4. I have authorized Save the Dinky to represent my interests in this proceeding.

5. I live very close to the Princeton Branch Station, and because of my proximity to the Station and my longstanding ties to the Princeton community, as well as my interest in environmental sustainability and historic preservation, I am well acquainted with the Station and with its value to the Princeton community as an in-town terminal station that provides through ticketing to New York City and

points beyond. I am also well acquainted with its with its rich history of association in literary works and with notable figures in politics, literature, and science.

6. I am disabled, but I am able to walk to the Station in its current location to commute to a medical program in New York City.

7. The plans to move the station terminus, dismantle the historic station facility, and abandon a portion of the Princeton line will severely burden me and others who rely on the station for pedestrian access to rail transportation to Princeton Junction and points beyond.

8. The plans to move the station terminus southward and downhill will impose particular burdens on me because of my disability and others who are similar situated.

9. The plans to abandon the segment of the Princeton Branch line leading to the historic station will destroy an historic resource that provides walkable, sustainable transit and constitutes an invaluable right of way that should remain in public use.

10. Along with Save the Dinky, Inc. I am involved in state court litigation related to this matter. The litigation includes an appeal now pending in the New Jersey Superior Court Appellate Division, In Re: Princeton Railroad Station Track Removal Project, No: A-005145-1T1, challenging a decision by the New Jersey Department of Environmental Protection (NJDEP) authorizing New Jersey Transit to abandon the segment of the Princeton Branch line leading to the Princeton Railroad Station. I commented in meetings before the New Jersey Historic Sites Council leading to the NJDEP decision. Along with at least nineteen others who commented, many of whom were supporters of Save the Dinky, Inc., I objected to the proposed abandonment and encroachment on the historic station.

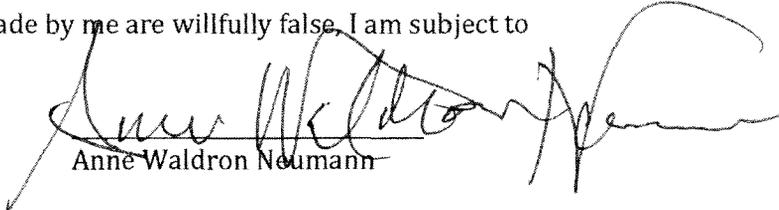
11. It is my understanding that the STB abandonment process provides a number of remedies to foster preservation of historic assets including historic

preservation reviews and mitigation procedures, public use conditions, and other measures.

13. It is also my understanding that the STB abandonment process affords opportunities for preservation organizations and affected individuals to advocate for preservation of vital rail assets. I believe that my rights to petition the government to enforce statutory protections in my neighborhood and community (including protections to safeguard my interests in environmental sustainability, historic preservation, and preservation of rail transportation corridors) have been impaired, frustrated, and obstructed by the failure of New Jersey Transit to seek STB abandonment authority before embarking on plans that will allow a longstanding public rail right of way to fall into private hands and an historic operating railroad station facility to be dismantled.

14. As my rights are adversely impacted, so are the rights and efforts of Save the Dinky and its supporters. Save the Dinky properly represents my interests and those of others similarly situated in joining this petition.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.


Anne Waldron Neumann

Sworn and subscribed before me
on this 27th day of June
, 2013.


Virginia Kerr, Esq.
Attorney at Law, State of New Jersey
124 Jefferson Road
Princeton, NJ 08540

Exhibit C

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket No. FD 35745

Affidavit of Michael E. Allen

Now comes Michael E. Allen, who, having been duly sworn, doth state the following:

My name is Michael Allen and I am over the age of eighteen years. I hold Research Card Number 133338 expiring on February 21st, 2014, last renewed by the National Archives and Records Administration (NARA) at 8601 Adelphi Road College Park, MD 20740-6001 on February 21st, 2013. I have over 30 years of experience working with Interstate Commerce Commission (ICC) records with particular emphasis on records concerning real property used by the Pennsylvania Railroad and it's affiliates.

On February 21st 2013 I visited the NARA facility at College Park, MD and requested the ICC Abandonment Docket files. This record set consists of three (3) shoebox size file boxes containing four by six inch (4x6 in) index cards. These cards were the control documents for Railroad Abandonment Petitions filed prior to the Interstate Commerce Commission Termination Act of 1995.

I initially examined the docket cards for Penn Central Railroad Corporation (PC) and it's subsidiaries, and the Consolidated Railroad Corporation (Conrail) and I could find no filing which included the line of railroad between Princeton and Princeton Junction commonly referred to as Princeton Branch, or in this instance as the 'Dinky'. To control for the possibility of a card being misfiled I then hand searched all three boxes in their entirety, with the same result.

Further, I have direct knowledge through personal observation of carload freight being delivered to customers in the vicinity of Faculty Road (FRA Grade Crossing Number 516019V) by Penn Central during the period prior to the takeover of the line by Conrail.

Michael E. Allen

Michael E. Allen

Sworn to and subscribed before me this 27th day of JUNE, 2013.
/s/ Sundar

Notary Public of the State of New Jersey

My commission expires: 12/14/2016

SUNDAR SUBRAMANIAN Notary Public State of New Jersey My Commission Expires Dec. 14, 2016
--

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of July, 2013, I caused a copy of the foregoing pleading to be served by FEDERAL EXPRESS to the persons listed at the following addresses:

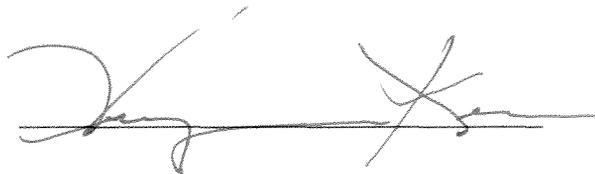
James Weinstein
Executive Director
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Kenneth M. Worton
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July 5, 2013

A handwritten signature in black ink, appearing to be "D. Weinstein", written over a horizontal line.