

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**STB DOCKET NO. AB 167 (SUB-NO. 1189X)**

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**CONSOLIDATED RAIL CORPORATION  
—ABANDONMENT EXEMPTION—  
IN HUDSON COUNTY, NJ**

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Office of Proceedings  
January 14, 2014  
Part of  
Public Record

**REPLY OF CONSOLIDATED RAIL CORPORATION  
IN OPPOSITION TO CITY PARTIES' LETTER REQUEST TO STRIKE**

Consolidated Rail Corporation (“Conrail”) hereby replies to a request made by the City of Jersey City, Rails to Trails Conservancy, and Pennsylvania Railroad Harsimus Stem Embankment Preservation Coalition (hereinafter “City Parties”) to strike a letter submitted by Conrail to the STB on January 3, 2014. The City Parties’ request to strike appears in a letter dated January 9, 2014, to the Honorable Cynthia T. Brown. The City Parties contend that Conrail’s January 3, 2014 letter is an improper reply to a reply—specifically, to the City Parties’ December 31, 2013 Reply to a Petition to Intervene filed on behalf of 212 Marin Boulevard, LLC and seven other LLCs (collectively, “the LLCs”).

**ARGUMENT**

We will be brief. The request to strike should be denied. The City Parties in their December 31 Reply did *not* oppose the LLCs’ Petition to Intervene. The City Parties did, however, take the opportunity to repeat baseless allegations that Conrail had made fraudulent misrepresentations in connection with regulatory disputes about the status of the Harsimus Branch. Conrail’s January 3, 2014 letter was an entirely proper, and temperate, response to the City Parties’ repetition of these gratuitous and inflammatory allegations.

The City Parties' further repetition of those allegations in its request to strike does not make them any more persuasive or relevant to the LLCs' Petition to Intervene. On the contrary, the City Parties' latest filing underscores the incongruity of those allegations. The City Parties, for example, argue that Conrail "never informed" the STB about the (alleged) "illegal[]" abandonment of "the Harsimus Branch without prior STB authorization" (City Parties' January 9, 2014 letter at 1), even though the legality or illegality of Conrail's disposition of the property was the *central question* in the STB declaratory order proceeding concerning the regulatory status of the Harsimus Branch. Further, the City Parties seem to assume that whenever the Board rejects a party's bona fide legal arguments, that party must have engaged in misrepresentations. *See id.* at 2 (citing Board decision rejecting Conrail's legal position as evidence that Conrail made misrepresentations).

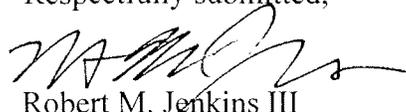
Needless to say, there was and is no "misrepresentation" in Conrail's legal position. And Conrail had every right to protest when the City Parties gratuitously inserted bogus "fraud" allegations against Conrail in their Reply to a Petition to Intervene by the LLCs that the City Parties did not even oppose.

### CONCLUSION

The City Parties' request to strike Conrail's letter should be denied.

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Respectfully submitted,



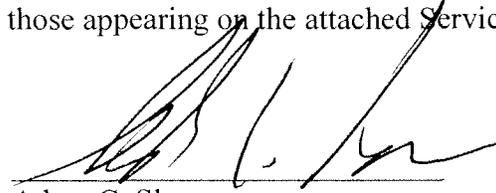
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January 14, 2014

CERTIFICATE OF SERVICE

I hereby certify service that on January 14, 2014, I caused a copy of the foregoing to be served by U.S. Mail, postage prepaid, first class, on those appearing on the attached Service List.

A handwritten signature in black ink, appearing to read 'Adam C. Sloane', is written over a horizontal line.

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