

CHARLES H. MONTANGE
ATTORNEY AT LAW
426 NW 162ND STREET
SEATTLE, WASHINGTON 98177
(206) 546-1936
FAX: (206) 546-3739

239488
239489
239490

ENTERED
Office of Proceedings
November 3, 2015
Part of
Public Record

3 November 2015

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

Re: Conrail - Abandonment Exemption - in Hudson
County, N.J., AB 167 (Sub-no. 1189X)
and related proceedings AB 55-686X
and AB 290-306X

Request for Clarification

Dear Ms. Brown:

This Board entered the protective order in this proceeding on motion of CNJ Railroad (CNJ), despite the City's objection that the protective order was incompatible with local open records statutes. CNJ, working with a shipper, produced a verified statement, and designated the entire statement highly confidential. Letter, CNJ to STB, AB 167-1189X, filed April 30, 2015, p.3. CNJ furnished the statement as so designated to counsel for the City in accordance with the protective order. City filed the CNJ-furnished statement in accordance with the protective order. City understands that CNJ views the statement as including information of commercial value not only to the shipper but also to CNJ. The LLCs moved to unseal the entire document. This Board directed the City to produce an unredacted confidential version of the statement and a redacted public version. Decision served 2 Nov. 2015 at p. 5.

In general, the party which produces and designates evidence as highly confidential is in the best position to provide unredacted confidential copies and redacted public versions in response to this Board's decision upon a motion to unseal. In any event, the party (CNJ) that originally produced

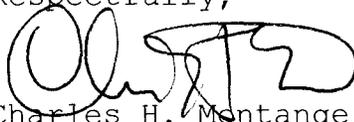
the statement at issue here and which originally designated it as highly confidential is in a superior position to ascertain what information continues to merit confidential treatment per this Board's Decision. Furthermore, having the party that produced the statement responsible for preparing the redacted public version relieves the City (which opposed the protective order in the first instance) and its attorneys from liability for inadvertently releasing to the public information in the shipper statement that CNJ (or the shipper) view as continuing to merit confidential treatment under this Board's orders.

Alternatively, City requests that counsel for the LLCs prepare the redacted public version of the statement. Counsel for the LLCs has a copy of the entire statement, is the proponent of unsealing it, and is in as good a position as counsel for the City in terms of evaluating what should be redacted in accordance with this Board's orders. If the party claiming confidential treatment (CNJ) is not the party that prepares the redaction, then the proponent of disclosure (LLCs) should be liable for inadvertent disclosure of confidential information, not innocent bystanders (City).

In sum, the City requests clarification that CNJ is the party responsible for producing a redacted public version of the statement and unredacted confidential version of the statement given that City neither produced the original statement nor designated any portion of it for confidential or highly confidential treatment.

Counsel for City is authorized to state that CNJ supports this request for clarification.

Respectfully,

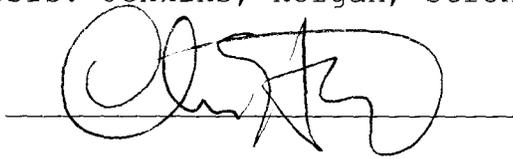


Charles H. Montange
for City of Jersey City, Rails to Trails
Conservancy and PRR Harsimus Stem Embankment
Preservation Coalition

cc. Parties per certificate of service

Certificate of Service

The undersigned hereby certifies service by posting the foregoing in the US Mail, postage pre-paid, first class or priority mail, this 3d day of November 2015 addressed to Daniel Horgan, counsel for the LLCs, Waters, McPherson, McNeill, P.C., 300 Lighting Way, P.O. Box 1560, Secaucus, NJ 07096; and Robert M. Jenkins III, counsel for Conrail, Mayer Brown LLP, 1999 K Street, N.W., Washington, D.C. 20006-1101 and the other parties on the attached service list. The undersigned also provided email copies to Messrs. Jenkins, Horgan, Strohmeyer and Riffin.

A handwritten signature in black ink, appearing to read "D. Saunders", is written over a horizontal line.

Service List
Revised Nov. 3, 2015

Daniel D. Saunders
State Historic Preservation Office
Mail Code 501-04B
NJ Dept. Environmental Protection
P.O. Box 420
Trenton, NJ 08625-0420

Massiel Ferrara, PP, AICP, Director
Hudson County Division of Planning
Bldg 1, Floor 2
Meadowview Complex
595 County Avenue
Secaucus, NJ 07094

Joseph A. Simonetta, CAE,
Executive Director
Preservation New Jersey
PO 7815
West Trenton, NJ 08628

Justin Frohwith, President
Jersey City Landmarks Conservancy
54 Duncan Avenue
Jersey City, NJ 07303

Jeremy Jacobson, President
Harsimus Cove Association
20 Erie Street, Apt. #2
Jersey City, NJ 07302

President
Hamilton Park Neighborhood Association
PMB 166
344 Grove Street
Jersey City, NJ 07302

Jill Edelman, President
Powerhouse Arts District Nbd Ass'n
140 Bay Street, Unit 6J
Jersey City, NJ 07302

President
The Village Nbd Ass'n
365 Second Street
Jersey City, NJ 07302

President
Van Vorst Park Association
91 Bright Street
Jersey City, NJ 07302

President
Historic Paulus Hook Ass'n
192 Washington Street
Jersey City, NJ 07302

Dennis Markatos-Soriano
Exec. Director
East Coast Greenway Alliance
5315 Highgate Drive, Suite 105
Durham, NC 27713

Gregory A. Remaud
Conservation Director
NY/NJ Baykeeper
52 West Front Street
Keyport, NJ 07735

Sam Pesin, President
Friends of Liberty State Park
580 Jersey Ave., Apt. 3L
Jersey City, NJ 07302

Aaron Morrill
Civic JC
64 Wayne St.
Jersey City, NJ 07302

Eric S. Strohmeier
Vice President, COO
CNJ Rail Corporation
81 Century Lane
Watchung, NJ 07069

James Riffin
PO Box 4044
Timonium, MD 21094

Supplemental Service Certificate

At the request of the Board, I have also served, and certify service upon, the addressees on the following Supplemental Service List as of the date of the foregoing certificate of service:

Supplemental Service List

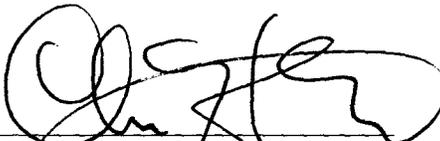
Stephen Marks
Hudson County
583 Newark Avenue
Jersey City, NJ 07306

Gretchen Scheiman
Historic Paulus Hook Association
121 Grand Street
Jersey City, NJ 07302

Michael Selender
Jersey City Landmarks Conservancy
P.O. Box 68
Jersey City, NJ 07303-0068

Brian P. Stack
411 Palisade Avenue
Jersey City, NJ 07307

Dan Weber
Van Vorst Park Association
2989 Varick Street
Jersey City, NJ 07302



Charles H. Montange