

MAYER • BROWN

Mayer Brown LLP
1999 K Street, N.W.
Washington, D.C. 20006-1101

Main Tel +1 202 263 3000
Main Fax +1 202 263 3300
www.mayerbrown.com

January 3, 2014

235256

Robert M. Jenkins, III
Direct Tel +1 202 263 3261
Direct Fax +1 202 263 5261
rmjenkins@mayerbrown.com

The Honorable Cynthia T. Brown
Chief, Section Administration
Surface Transportation Board
Office of Proceedings
395 E Street, SW, Room #100
Washington, DC 2023-0001

ENTERED
Office of Proceedings
January 3, 2014
Part of the Public Record

Re: STB Docket No. AB 167 (Sub-No. 1189X)

Dear Ms. Brown:

Consolidated Rail Corporation (“Conrail”) is in receipt of the Reply to Petition to Intervene, filed by City of Jersey City (“City”), Rails to Trails Conservancy, and Pennsylvania Railroad Harsimus Stem Embankment Preservation Coalition (collectively, “City Parties”). Although Conrail finds it somewhat mystifying that the City Parties have filed a 10-page document *not* objecting to the petition to intervene filed on behalf of eight LLCs, Conrail recognizes that that is an issue for the LLCs and the Board to address. What Conrail wishes to address here is the patently opportunistic attempt by the City Parties to repeat once more the LLCs’ baseless fraud allegations against Conrail as if they were true. See Reply to Petition to Intervene at 4-5, 7-8. As the City Parties admit, Conrail has shown in papers filed in U.S. District Court and the STB that the LLCs were aware of all the facts that allegedly support their ersatz fraud claims. The City Parties fail, however, to mention that Conrail has shown that the **STB** also was aware of all the facts allegedly supporting the fraud claims. There was, in short, no fraud committed by Conrail upon the LLCs or the STB, and for the City Parties to continue to trumpet such baseless allegations as if they were proven facts (*see id.* at 5, 7, 8) is offensive and irrelevant to the question whether the Board should lift the stay in this proceeding. For the reasons set forth in Conrail’s Reply filed December 11, 2013, the stay should not be lifted, and the City Parties’ gratuitous invocation of the LLCs’ abortive “fraud” charges should be disregarded.

Sincerely,



Robert M. Jenkins, III

cc: Service List (attached)

SERVICE LIST

Charles H. Montange
426 NW 162nd Street
Seattle Washington 98177

Andrea Ferster
General Counsel, Rails to Trails Conservancy
2121 Ward Court NW, 5th Floor
Washington, DC 20037

Daniel Horgan
Waters, McPherson, McNeill PC
300 Lighting Way
Secaucus, NJ 07096

Fritz Kahn
1920 N. Street NW
8th Floor
Washington, DC 20036-1601

Stephen D. Marks, PP, AICP
Planning Director
Hudson County Division of Planning
583 Newark Avenue
Jersey City, NJ 07306

Bradley M. Campbell, Commissioner
State Historic Preservation Office
NJ Department of Environmental Protection
401 East State Street, P.O. Box 404
Trenton, NJ 06825-0404

Eric Fleming
President
Harsimus Cove Association
344 Grove Street
P.O. Box 101
Jersey City, NJ 07302

Jennifer Greely
President
Hamilton Park Neighborhood Association
22 West Hamilton Place
Jersey City, NJ 07302

Valerio Lucio
Civic JC
P.O. Box 248
Jersey City, NJ 07303-0248

Dolores P. Newman
NJ Committee for the East Coast Greenway
P.O. Box 10505
New Brunswick, NJ 08906

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

Robert Crow
President
The Village Neighborhood Association
365 Second Street
Jersey City, NJ 07302

Preservation New Jersey Incorporated
310 W. State Street
Trenton, NJ 08618

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

Sam Pesin
President
Friends of Liberty State Park
75-135 Liberty Ave.
Jersey City, NJ 07306

Olu M. Howard
President
Hamilton Park Neighborhood Association
308 Eighth Street
Jersey City, NJ 07302

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

Robert Crowell
Monroe County Planning Department
Room 306 Courthouse
Bloomington, IN 47404

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

Daniel H. Frohwirth
Jersey City Economic Development Corp.
30 Montgomery Street, Suite 820
Jersey City, NJ 07302

Daniel D. Saunders
Deputy State Historic Preservation Officer
State Historic Preservation Office
P.O. Box 404
Trenton, NJ 08625

Maureen Crowley, Coordinator
Embankment Preservation Coalition
263 Fifth St
Jersey City, NJ 07302