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ENTERED
Office of Proceedings
May 8, 2014
Part of
Public Record

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May 8, 2014

Submitted by E-Filing

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

**RE: Petition for Declaratory Order of Exemption Pursuant to 5
U.S.C.A. § 554, 49 C.F.R. § 1117.1, and 49 U.S.C.A. § 10502
by 212 Marin Boulevard, LLC et al.**

Docket Number FD-35825

Dear Ms. Brown:

We are E-Filing this letter and a Petition for Declaratory Order of Exemption Pursuant to 5 U.S.C.A. § 554, 49 C.F.R. § 1117.1, and 49 U.S.C.A. § 10502.

In accordance with the Board's regulations, we are filing our papers electronically in lieu of a paper filing. All parties on the service list included in the filed papers are being served with papers copies of these documents by first class mail on this date. As noted in the papers, we are also sending an electronic copy of one exhibit by overnight delivery to your attention. While this exhibit has been electronically filed in the U.S. District Court, and is provided as part of our present E-Filing, we thought it would be best to provide a separate DVD for the convenience of the Board and its staff.

The filing fee is being paid by credit card, authorization to which is being faxed separately on this date.

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May 8, 2014
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May 8, 2014
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Cynthia Brown, STB
RE: Docket Number FD-35825
May 8, 2014
Page 2

Thank you for your attention to this matter.

Respectfully submitted,

WATERS, McPHERSON, McNEILL, P.C.

BY: 
DANIEL E. HORGAN

Enclosures (via electronic filing)

Cc: Service List (via U.S. first class mail with enclosures)

802240.1

**BEFORE THE SURFACE TRANSPORTATION BOARD
Washington, D.C.**

Docket Number FD-35825

**Petition for Declaratory Order of Exemption
Pursuant to 5 U.S.C.A. § 554, 49 C.F.R. § 1117.1, and
49 U.S.C.A. § 10502**

PETITIONERS:

**212 Marin Boulevard, LLC
247 Manila Avenue, LLC
280 Erie Street, LLC
317 Jersey Avenue, LLC
354 Cole Street, LLC
389 Monmouth Street, LLC
415 Brunswick Street, LLC
446 Newark Avenue, LLC
NZ Funding, LLC
Limited liability companies of New Jersey.**

DANIEL E. HORGAN, DC BAR # 239772
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Counsel for Petitioners

DATED: May 8, 2014

Filing Contains Color Exhibits

BEFORE THE SURFACE TRANSPORTATION BOARD

Washington, D.C.

Docket Number FD-35825

**Petition for Declaratory Order of Exemption
Pursuant to 5 U.S.C.A. § 554, 49 C.F.R. § 1117.1, and
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415 Brunswick Street, LLC
446 Newark Avenue, LLC
NZ Funding, LLC
Limited liability companies of the State of New Jersey,**

As PETITIONERS:

PETITIONERS' REQUEST FOR RELIEF

1. The Board last considered the status of Consolidated Rail Corp.'s ("Conrail") Harsimus Branch of the former Penn-Central Railroad in 2007 in City of Jersey City—Petition Declaratory Order, STB Fin. Docket No. 34818, 2007 WL 2270850 (Aug. 9, 2007), reconsideration denied, 2007 WL 4429517 (Dec. 19, 2007). The Court of Appeals vacated those proceedings for lack of jurisdiction. Consolidated Rail Corp. v. Surface Transp. Bd., 571 F.3d (D.C. Cir. 2009). Extensive litigation followed that decision in the United States District Court the District of Columbia sitting as the Special Railroad Court pursuant to 45 U.S.C.A. § 719 (the "Special Court"), including a published Special Court decision on standing, City of Jersey City Conrail, 741 F. Supp.2d 131 (D.D.C. 2010), a published decision of the United States Court of Appeals for the District of Columbia Circuit (the "Court of Appeals") reinstating the action, City

of Jersey City v. Conrail, 681 F.3d 741 (D.C. Cir. 2012), a final judgment of the District Court, a decision affirming that judgment by the Court of Appeals. In the District Court action, the original petitioners¹ and the intervenors² before the Board stipulated the location of that portion the Harsimus Branch in dispute between CP Waldo and Marin Boulevard, and that this portion been conveyed to Conrail in 1976 as a line of rail subject to the Board's jurisdiction. Conrail refused to join in the stipulation, but did not contest it either. Numerous other issues concerning continuing jurisdiction of the Board over the Harsimus Branch were then in dispute, but the Special Court declined to address them and specifically left them for resolution in another forum. The Court of Appeals summarily affirmed and specifically stated that the remaining disputes preserved for future resolution in an appropriate forum. The decisions and orders of the courts are attached as **Exhibit A-1, and A-2**. The only issue now resolved in this matter is the location of the relevant portion of the Harsimus Branch between CP Waldo and Marin Boulevard and that it was transferred to Conrail in 1976 as a regulated line of rail, as stipulated to by the petitioners and the present Petitioners. The court orders arising from that stipulation (and unwillingness to contest them) now vest the Board with the initial jurisdiction it lacked in the proceedings of 2006 and 2007. The Board is the appropriate forum for adjudication of those remaining disputes now raised by Petitioners in this request to the Board for a binding adjudication.

2. By and through their undersigned counsel, Petitioners request that the Board issue Declaratory Order that:

¹ The petitioners in the 2006 petition were City of Jersey City, Rails to Trails Conservancy, the Pennsylvania Railroad Harsimus Stem Embankment Preservation Coalition, and State Assemblyman Louis Manzo.

- a. The July 2005 transfer of lands formerly utilized as a line of rail known as the Harsimus Branch by Conrail to Petitioners was subject to the Board's approval pursuant to 49 U.S.C.A. §10901, and was made by Conrail without prior Board approval, and without formal abandonment. Petitioners took title from Conrail for non-railroad use on Conrail's representation that the properties were not regulated lines of rail, and without conditions in their deeds reserving any rights by Conrail to operate a railroad. Because these properties are no longer needed or suitable for railroad use, and Petitioners had no knowledge of Conrail's regulatory obligations, the circumstances do not require the Board to continue jurisdiction over Petitioners' right, title or interest in said properties.
- b. There is no present or future need for the use of Petitioners' properties for rail service, and the Board therefore declares that jurisdiction no longer exists over Petitioners or their properties pursuant to 49 U.S.C.A. § 10502.
- c. After the Board's final decision and rulings in Consolidated Rail Corporation - Abandonment of the Weehawken Branch—in Hudson County, NJ, Docket No. AB-167 (Sub-No. 1067N), pursuant to 45 U.S.C.A. § 748(c), dated March 12, 2002, and the subsequent consummation of that abandonment by Conrail on May 2002, all lines of rail that connected to Petitioners' properties were severed from the national rail network by such abandonment. Petitioners are neither a railroad nor railroad customers, and no residual interests of interstate commerce remain in these areas such that the Board must exclude them from its jurisdiction. See, Coal

² The first eight listed Petitioners in this Petition were the intervenors in the 2006 STB proceedings.

Exporters Association of the U.S., Inc. v. U.S., 745 F.2d 76, 82 (D.C. Cir. 1984).

The aforesaid abandonment by Conrail also divested the Board of jurisdiction Petitioners' properties. See, RLTD Railway Corp. v. STB, 166 F.3d 808 (6th Cir. 1999).

AUTHORITY

3. This request is made pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C.A. § 554, 49 U.S.C.A. §10502, and the regulations of the Board (49 C.F.R. § 1117.1), for a declaratory order exempting Petitioners and their properties from the Board's jurisdiction as they are private property owners not operating any railroad in an area in which there are no interests of interstate commerce relating to rail freight service.

STATEMENT OF CLAIM

4. The reasons for this request are that Petitioners' real property interests on which a former line of rail was located, which are more fully described below, have been challenged in courts of the State of New Jersey, and those courts have deferred resolution of those claims until the jurisdiction of the Board has been resolved. Issues involving the post-abandonment status of real estate are governed exclusively under state law. Preseault v. I.C.C., 494 U.S. 1, 8-9 (1990). Where all of a railroad's interests have been extinguished, basic common law property principles arising under state law control, and reserved government interests are not implied. See, Marvin Brandt Revocable Trust v. United States, --- S.Ct.--- , S.Ct. No. 12-1173, (March 10, 2014) (rejecting implied reservations and restrictions involving railroad rights-of-way over private property that has been freely conveyed or otherwise abandoned). The declaration sought by Petitioners would resolve whether they must continue to litigate these matters under federal jurisdiction, including a now pending Conrail abandonment petition AB 167 (Sub-No. 1189X),

whether these real estate disputes can be returned to the courts of the State of New Jersey, ending further federal proceedings. These disputes have been before the Court of Appeals on separate occasions (once on direct appeal from a Board decision which was vacated), and the Special Court, spanning a period of eight years. Claims against Petitioners' title and other in their real estate pending in state court have been unjustly delayed by these proceedings.

5. The facts upon which this petition is based are provided in greater detail in the following sections and in its Exhibits. In 1976, Conrail acquired several lines of rail serving the Jersey City waterfront and other areas. During the 1980's, the need for freight service along the line of rail that ran over Petitioners' properties (referred to as the "Harsimus Branch") was losing customers, and in 1988, the last rail customer closed. Conrail was under pressure from the City of Jersey City (the "City") to eliminate its rail operations in downtown Jersey City in favor commercial, residential, and mixed-use development. See, Exhibit B. With no customers on the Jersey City waterfront, the track on Petitioners' property, which served as the sole connection for waterfront rail customers in Jersey City to the national rail network, was dismantled in the early mid-1990's by both the City and by Conrail without seeking or receiving regulatory authority the Board. This removal of railroad infrastructure included all of Petitioners' properties and continued to the point where the line over Petitioners' properties connected to the only active of rail on the waterfront known as the River Line, which itself had only two customers to the of Jersey City in Hoboken and Weehawken. See, Consolidated Rail Corporation - Abandonment of the Weehawken Branch—in Hudson County, NJ, AB-167 (SUB-NO. 1067N) (March 13, 2002). The River Line was then a part of the national rail network. Conrail filed Notices of Insufficient Revenue pursuant to the North East Rail Service Act 45 U.S.C.A. § 748 ("NERSA") 1983 and 1985, and in 2000, it applied for abandonment of the River Line (and the connecting

Weehawken Branch), which it then described as running from “the connection to the Passaic and Harsimus Branch at Controller Point (CP) Waldo in Jersey City (approximately MP 0.00).”

Exhibit C. The location of CP Waldo is well-established along the Harsimus Branch and is conclusively established by Conrail track maps, charts and other documents as being at the point where the Waldo Avenue bridge passes over the railroad. It is the common point in Conrail’s descriptions as MP 0.00 for both the River Line and the Harsimus Branch on Conrail records the time. See, *ibid.*

6. The Board granted the request on March 13, 2002, and Conrail consummated the abandonment shortly thereafter on May 1, 2002. **Exhibit D.** The Special Court in 2012 (Exhibit A) ruled that the Harsimus Branch over Petitioners’ properties ran to the same point, CP Waldo. With this resolution of the location of the regulated Harsimus Branch line of rail running to CP Waldo (Line Code 1420), it becomes clear that the only track on which both the River Line and the Harsimus Branch ran was a single track connecting both the River Line and the Harsimus Branch to CP Waldo because there was only one such track from 1976 until Conrail removed it in connection with its 2002 abandonment of the River Line. Three years later in 2005, Petitioners acquired title to their properties from Conrail without any reservation for railroad operations. See, Petitioners’ deeds from Conrail, **Exhibit E.**

7. Petitioners have raised the Board’s potential for jurisdiction over other Jersey City waterfront properties in the District Court and elsewhere in response to the disparity of treatment by Conrail and Jersey City between those other properties, and Petitioners’ properties. There is continuing need for the regulation of any of these properties, but Petitioners seek no relief for properties other than their own. In that context, other lines of rail are identified later in this

solely for the purpose of illustrating the absence of any need or potential for rail service over formally connected to Petitioners' properties.

1. FACTS IN SUPPORT OF PETITION

a. Petitioners' Property

8. Eight of the limited liability companies now petitioning the Board acquired title to properties located in Jersey City, Hudson County, New Jersey from Conrail on July 12, 2005 by deeds, without any reservation for railroad operations or activities.³ **Exhibit E.** Conrail had acquired these properties in 1976 by a conveyance ordered by the Special Court under the Regional Railroad Reorganization Act. 45 U.S.C.A. § 743(b) (also known as the "3-R Act"). The properties conveyed to the Petitioners were formerly utilized for a portion of the Harsimus of the Pennsylvania Railroad,⁴ identified in Conrail's deeds from the bankruptcy trustee of the Penn Central Railroad as Line Code 1420. **Exhibit F.**

9. The relevant portion of the Harsimus Branch acquired by Conrail in 1976 and deeded to Petitioners in 2005 lies to the east of a railroad benchmark identified as Control Point Waldo ("CP Waldo"). In the deed of conveyance, it was described as a line that ran for approximately six miles beginning on the western shore of the Hudson River at Mile Post 1.00, Kearny, New Jersey (Mile Post 7.00) along a route that took it past CP Waldo. CP Waldo is a prominent feature located in Zone 17 on Conrail's New Jersey Division track maps, which were revised for this area in 1985. See, Exhibits G-1, G-2, and G-3. On these Conrail maps, which

³ Petitioner NZ Funding, LLC was not one of the original eight entities purchasing title to eight separate parcels of land, respectively. It later acquired its interests in all of those other lands by way of liens, which are also now subject to litigation in the courts of New Jersey. For convenience, and except where the context may otherwise require specificity, all Petitioners are referred to collectively as "Petitioners" and without regard to their individual, respective interests. **Exhibit E.**

were current ones at the time the River Line was abandoned, CP Waldo was sited at MP 0.00 on both the Passaic & Harsimus Branch and the River Line. **Exhibit G-1.**

10. When Conrail filed for abandonment of the River Line in 2000, it did not consider the track running from CP Waldo to Marin Boulevard over Petitioners' property to be a regulated line of rail. This is the position it took before the Board in 2006 and in the Special Court by never having conceded the regulated nature of the track, and by never joining in the stipulation in the Special Court between Petitioners and others. Conrail therefore considered that the Harsimus Branch ended at CP Waldo, which was MP 0.00 for both the River Line and the Harsimus Branch. There is no indication that Conrail intended to abandon only some of the River Line, or that the River Line ended at a point to the east of CP Waldo approximately 750 feet (0.142 miles) distant at the switch where the River Line and the Harsimus Branch came together. Any such speculation is conclusively rebutted by the fact that Conrail must have considered the River Line to connect to the national rail network at CP Waldo. That conclusion is confirmed by the fact Conrail removed track for the River Line to CP Waldo. **Exhibit H.**

11. Also in 1976, Conrail acquired other rail lines on the Hudson River waterfront connected to CP Waldo. Those included the River Line, also known as Line Code 1412, and the Hudson Street Industrial Track, also known as Line Code 1440. These lines connected to the national rail network through CP Waldo over a single track that Conrail's 1985 track maps designate as track "215," or the "Harsimus Cove Elevation Track" in Zone 17, in New Jersey. **Exhibit G-1.** The specifics of the locations and connections of these lines to CP Waldo, as they were transferred to Conrail under the 3-R Act, and as pertinent to this petition for declaratory judgment, are more specifically described later in this petition and in various Exhibits hereto.

⁴ The Harsimus Branch was also sometimes referred to as the "Passaic and Harsimus Branch."

b. Prior Actions by the City and Conrail

12. Rail service from waterfront areas to the east of Marin Boulevard (formerly known as Henderson Street) (between Marin Boulevard and the Hudson River) rapidly diminished by the mid 1980's. In 1985, Conrail prepared an internal analysis of its customers on both the Harsimus Branch and the Hudson Street Industrial Track. **Exhibit I.** Conrail's analysis noted that the two lines served Colgate Palmolive Corporation and several other shippers, all of which had facilities on the Hudson River waterfront. At that time, the City was considering condemnation of the properties of two customers; Colgate was closing within three years; and, the Hudson Street Industrial Track and the Harsimus Branch were facing diminishing returns to Conrail. The memo ended with a discussion envisioning remaining customers diverting to truck transport in lieu of rail.

13. By 1988, rail service on these same two lines (the Harsimus Branch and the Hudson Street Industrial Track) was again surveyed by Conrail. **Exhibit J.** With respect to these lines, only six carloads were generated in 1987 by remaining shippers other than Colgate. Colgate was scheduled to close the following year—1988. The memo concluded, “This suggests that an expedited abandonment may be possible if the remaining active customer(s) discontinue rail service or relocate.” **Exhibit J.**

14. Petitioners believe that sometime in or around 1988 when the last train left the Colgate factory on Hudson Street, any remaining customer(s) relocated in the face of rising real estate values and redevelopment pressures. By 1992, the Harsimus Branch running over Petitioners' properties was in serious dis-repair and causing alarm in Jersey City for the safety of the public using the streets under the several bridges connecting between the blocks of

properties. The City Council had become involved in pressing Conrail to make repairs and in May 1992, Conrail's engineers advised the City that the bridges had been inspected and that certain deficiencies would be remedied and conditions monitored "every six months." **Exhibit K-1, K-2, and K-3.**

15. Conrail continued to use the line on Petitioners' properties for turn-arounds until a connection to its Northern Branch known as the Marion Junction was completed and put into service. This occurred in or about April 1994. See, **Exhibit L.**

16. Prior to that, a member of the City's engineering department reported to the City Engineer and his deputy in a project memorandum of a telephone call with one Jim McLaughlin of Conrail. The memorandum reported that once the Marion Junction connection was made:

...Conrail will seek to abandon service on the 6th Street Viaduct [i.e., the properties now owned by Petitioners] according to ICC rules. If it is a main line abandonment, it must be reviewed and approved by the ICC. If it is a stub or branch line abandonment, it doesn't need approval. Right now Conrail is assuming it is a branch line abandonment and are expecting a ruling by their Law Department shortly. If it is a branch line, then it will be abandoned immediately, retired and sold.

Exhibit M.

17. Whether or not the Harsimus Branch and the Hudson Street Industrial Track were regulated lines of rail or branch, spur, or something else, it becomes clear that there were no remaining rail customers to be served because the "6th Street Viaduct," (Petitioners' properties) could be immediately retired and sold without consequence to any customer, at least in the view of Conrail and the City.

18. The same memo (**Exhibit M**) also documents that Conrail had solicited bids and anticipated the "...demolition of all the bridges and the removal of all rail by the summer."

However, it appears that the City itself was responsible for the removal of the first bridge, the over Marin Boulevard. **Exhibit L.**

c. STB Abandonment of River Line

19. As a result of the loss of customers and a significant diminution in freight traffic from the Hudson River waterfront, in 1983, and again in 1985, Conrail filed Notices of Revenue under NERSA for the River Line (Line Code 1412) and the adjacent Weehawken Branch.⁵ Conrail then entered into a sale agreement with the New Jersey Department of Transportation to sell, and subsequently abandon the River Line so that substantial portions of it could be used for light rail passenger service consistent with the transformation of the Hudson River waterfront from an industrial area to a business, commercial, residential, and mixed-use component of Jersey City and other waterfront municipalities in Hudson County.⁶ (Substantial portions of Line Code 1440 were also to be devoted to the same New Jersey Transit light rail system and the construction of a new city Street (Greene Street), but Line Code 1440 was never subjected to any abandonment by Conrail. **Exhibit N.**) On November 14, 2000, Conrail filed an application for expedited abandonment of the River Line under NERSA. Consolidated Rail Corporation, supra, STB No. AB-167 (SUB-NO.1067N) (March 13, 2002) (hereafter referred to “River Line Abandonment”). **Exhibit C.** This was the first filing by Conrail for permission to abandon or terminate service on any rail line connecting to CP Waldo.

20. After significant and extensive procedural objections by Cognis, one of the two only remaining industrial rail users on the Hudson River waterfront between Jersey City and

⁵ These notices are specifically referred to in the River Line Abandonment proceedings. Consolidated Rail Corporation, supra, AB-167 (SUB-NO. 1067N)(March 13, 2002). **Exhibit C.**

⁶ Conrail’s River Line Abandonment petition in STB No. AB-167 (Sub-No. 1067N) at **Exhibit C.**

Weehawken, several miles to the north, the Board authorized the abandonment of the River Line. Ibid. This abandonment, as more fully explained below, terminated rail service to the entire waterfront area, abandoned the line of rail extending eastward from CP Waldo, and ended further jurisdiction of the Board over that area, including portions of the Harsimus Branch now owned Petitioners, the entirety of the Hudson Street Industrial Track, and the remainder of the Harsimus Branch that ran eastward to the Hudson River. Petitioners will refer to these other lines of rail the other railroad tracks, yards, and whatever they may have been classified for regulatory purposes as “Waterfront Rail Lines.”

21. Any objection to the termination of rail freight service through CP Waldo from the Hudson River waterfront should have been made in connection with the River Line Abandonment proceedings. Those objections that were raised were adjudicated at that time by the Board in favor of abandonment without condition. In fact, Congress had enacted NERSA to streamline and expedite the abandonment of unused and unnecessary railroad lines by Conrail in recognition that the needs of interstate commerce did not justify delay or conditions upon abandonment, with the singular exception of offers of financial assistance.

22. Congress has also enacted 49 U.S.C.A. § 10502, granting the Board the power to exempt a “person, class of persons, or a transaction or service” from its jurisdiction in circumstances where rail service is of a limited nature and not needed to protect shippers. Petitioners and their interests in their respective properties fall within the purview of this statute, do all other owners of property on the Hudson River waterfront. For purposes of exemption from the Board’s jurisdiction, Petitioners are identically situated to all other purchasers of land from Conrail, and make this point specifically to establish that they are not a “class within a class” that can be singled out for regulation of their properties. That larger class includes owners of property

interests transferred by Conrail since it acquired the Harsimus Branch (Line Code 1420) and the Hudson Street Industrial Track (Line Code 1440) in 1976. This point arises because discriminatory arguments have been made by the City, and Conrail has failed to act with consistency on these properties. Conrail has not sought authorization from the Board for either abandonment or exemption for Waterfront Rail Lines properties before selling property to Petitioners and others. As a result, the Board has been presented with petitions by the City and Conrail seeking the exercise of jurisdiction only over Petitioners; anyone else similarly situated has been ignored.

d. Waterfront Rail Lines – No Railroad and No Customers

23. Pertinent to the present petition for a declaration of exemption from jurisdiction is the location and status of the three relevant lines of rail conveyed to Conrail in 1976 by order of the Special Court, by virtue of their relationship to Petitioners' properties and CP Waldo. Those relationships are described below.

- a. **Harsimus Branch.** Conveyed to Conrail as Line Code 1420, it ran from the Hudson River, across Petitioners' properties, through CP Waldo, to Kearny, New Jersey for a distance of approximately six miles. It is sometimes identified as the Passaic & Harsimus Branch, abbreviated as "P&H Br." The specific portion of the Harsimus Branch in the vicinity of CP Waldo is illustrated on Zone 17, Page 1, of Conrail's New Jersey Division map attached as **Exhibit G-1**. To the immediate west of CP Waldo it ran on two tracks, identified on that map as "211" and "212," which are described in the key to the map as "17 211 00 00 Passaic & Harsimus Line #1" and "17 212 00 00 Passaic & Harsimus Line #2," respectively. Immediately to the east of Waldo Avenue, where CP Waldo is located as shown

the map, these two tracks joined into one, identified as track “211,” which then splits again. The continuation of track “211” running in the same general easterly direction is indicated to be “215,” which is identified on the map key as “17 215 00 Harsimus Cove Elevation Track.” At the point where the drawing of this line “215” ends there appears the notation: “TO COLGATE See Zone 17 Page 2.” “Colgate” refers to the Colgate Palmolive factory that closed in 1988 as the City redeveloped its waterfront in the areas where the Waterfront Rail Lines were formerly located.

- b. **River Line.** Conveyed to Conrail as Line Code 1412, it consisted of two running from CP Waldo to Weehawken for approximately five miles, then a tunnel to North Bergen where it joined other lines of rail, including the Weehawken Branch. The specific relevant portion of the River Line in the of CP Waldo is illustrated on Conrail’s New Jersey Division map in Zone 18, 15, attached as **Exhibit G-2**. On this map it is identified as “206,” which runs in a generally north/south direction from the vicinity of CP Nave before it crosses Newark Avenue where it turns toward CP Waldo. At that point the Zone 18 map references “Zone 17 Page 1,” which is the previous sheet (**Exhibit G-1**) on which track “206” does not appear. Instead, that map shows an unnamed track switching off track “211” before it becomes track “215,” which is the “Harsimus Yard Elevation Track” leading across Petitioners’ properties toward “Colgate.” The same mapping illustration of showing tracks not specifically identified on that particular map as a narrow, solid line is used on the Zone 18, Page 15 sheet where single, unlabeled track is accompanied by an arrow and the words: “To Harsimus

Cove.” As track 206, the River Line approached CP Waldo where it intersected in Zone 17 with track “215” (the “Harsimus Cove Elevation Track”) and continued the track labeled “211” for a short distance on the Passaic & Harsimus Line #1 to CP Waldo. This intersection and its relationship to CP Waldo is more fully described and further documented hereafter.

- c. **Hudson Street Industrial Track.** Conveyed to Conrail as Line Code 1440, it connected to the Harsimus Branch at a point just to the east of Marin Boulevard and extended approximately 1.3 miles southward to serve industrial areas entirely within Jersey City. Except for its connection to the Harsimus Branch, it had no other connection to any other line on the national rail system. It is illustrated on Conrail’s New Jersey Division map, Zone 18, Page 2, attached as **Exhibit G-3**. On this map it is identified as track “210” which is described in the keyed to the map as “17 210 00 00 Hudson St. Industrial.” The notation on the map for Zone 17, Page 2 after track 210 connects to track 215 reads: “TO SOUTH KEARNY See: Zone 17 Page 1” indicating its connection through Petitioner’s properties.

24. All three of these lines were shown on “Exhibit B” to Conrail’s abandonment petition of 2000, a copy of that petition and its “Exhibit B” is attached to this Petition, as **Exhibit C**. The three references are highlighted on the Exhibit so that they may be more readily identified.

25. Before the Special Court, Petitioners submitted a declaration of a licensed and professional planner that established the location of this portion of the Harsimus Branch consistent with the routing of tracks “215” and “211,” as well as the location of the switch where the Harsimus Branch diverged to the east from the River Line, over Petitioners’ properties,

Marin Boulevard. A copy of that declaration by David Dixon and its attachments is annexed at **Exhibit O** (the “Dixon Declaration.”).⁷

e. Inconsistency and Non-Compliance Concerning ICC and STB Regulation

26. Conrail commenced formal abandonment of the River Line in 2000 and consummated it in 2002. It is the only abandonment to date of lines of rail connected to the national rail network through CP Waldo. In 2006 Jersey City commenced proceedings before Board to declare that a portion of the Harsimus Branch was a regulated line of rail, but selected only that portion beginning at Marin Boulevard because its sole purpose was to subject to the Board’s abandonment jurisdiction and impose conditions detrimental to Petitioners’ property interests. In 2008 Conrail filed a Notice of Intent to proceed with an expedited abandonment of the Harsimus Branch and the Hudson Street Industrial Track. **Exhibit P**. In that 2008 filing with the Board, the Harsimus Branch is described as beginning at MP 0.00 at CP Waldo and heading east across Petitioners’ properties, then turning south-east through the former Harsimus Cove Yard for a distance of 1.36 miles. The Notice of Intent described the Hudson Street Industrial Track as an isolated track 0.72 miles long that is not connected to the Harsimus Branch. In that filing, Conrail left a gap between the Hudson Street Industrial Track and the Harsimus Branch due to a “prior conveyance.” That conveyance was made approximately ten years earlier in or about 1988 and consisted of the property shown on a subdivision map, dated May 1, 1988 which coincides exactly with Conrail’s gap between the two lines of rail. See,

⁷ The Dixon Declaration was filed in the litigation in the US District Court for the District of Columbia. It consists of text and digital graphic exhibits, as more fully explained in the text, which are best viewed electronically as layered PDF documents. Copies of a DVD with Dixon’s Certification and all sub Exhibits will be separately provided to the Board and upon request, to any interested person. They can also be found as Document ECF #82 in Docket CV-09-1900 (DDC) through PACER.

Declaration, paragraph 8 e. and Attachments B and C, which show the locations of both lines of rail (Harsimus Branch and Hudson Street Industrial Track) according to Conrail's own records, aerial photography and other sources. **Exhibits O, O-2, and O-3.** Petitioners' surveyor, Dixon, establishes in his Declaration that the Hudson Street Industrial Track actually included Conrail's "gap"; that the line did connect to the Harsimus Branch; and, that Conrail's location of the Harsimus Branch is also incorrect based upon multiple data sources.

27. The City strenuously opposed virtually all of Conrail's positions in the 2008 Notice of Intent, and stating that seeking abandonment for the Hudson Street Industrial Track together with the Harsimus Branch would be "confusing to attempt to deal with them in the same proceeding, much less the same ER/HR. Conrail should seek separate abandonment authority in a different proceeding for each." And then, "Commenters object to processing the Hudson Street Industrial Track in the same proceeding as the Harsimus Branch. The lines per Conrail's "Exhibit A" are not even connected." **Exhibit Q, at 16.** Of course, the City was well aware that the Hudson Street Industrial Track, which served Colgate, connected to the Harsimus Branch because it had made that very argument to the Board in the City's 2006 petition for declaratory ruling that the Petitioners' properties were regulated because they carried trains from Colgate to CP Wallkill. Conrail thereafter filed its petition to abandon only the Harsimus Branch as it had, incorrectly, in the view of Petitioners, identified it in its Notice of Intent. Conrail has yet to file anything further with respect to the Hudson Street Industrial Track. The absence of any portion the Hudson Street Industrial Track, or for that matter, the remainder of the Harsimus Branch between Marin Boulevard and MP 1.0 at the Hudson River, seeks to selectively focus the Board upon the Petitioner's properties which they purchased in good faith, for non-railroad use, and no reservation of railroad rights in their deeds. At the same time both Conrail and the City have

diverted attention from the course of their conduct that either ignored or outright violated Board regulations.

29. Conrail has been unable, or unwilling, to identify which lines of rail running to CP Waldo remain subject to the Board's jurisdiction. By pursuing abandonment of the Harsimus Branch from Marin Boulevard, across Petitioners' properties, to CP Waldo over the same track abandoned as the last 750 feet of the River Line, Conrail would apparently abandon the same track twice. The Board has described the need to abandon the same track twice as "nonsensical" and "irrational." Alleghany Valley Railroad Company – Petition For Declaratory Order, STB Docket FD 35239, (June 15, 2010.) The contrary position, that it never abandoned the River Line to CP Waldo at all, would contradict its own letter consummating abandonment, and is equally non-sensical. Petitioners should not be subjected to the burdens of such arguments and questions when it is clear that there is no present purpose served by subjecting them to Board jurisdiction. That is exactly why they seek exemption.

30. In a matter entitled Consolidated Rail Corporation's Sales and Discontinuances, STB Docket EP 695, decided May 13, 2010, Conrail was ordered by the Board to "disclose to Board all of its line or partial line sales and all of its discontinuances of service since January 1, 1996, for which no Board authority was sought and no exemption notice was filed along with an explanation of why Board authority was not sought and no exemption notice was filed." **Exhibit R**. In its response to the Board dated September 27, 2010, **Exhibit S**, Conrail excused itself reporting on the parcels "that it sold on the 'Harsimus Branch,' which were subject of the proceeding in Docket No. AB 167 (Sub-No. 1189X)." **Exhibit S, footnote 1**. That matter is the initial proceeding filed by the City concerning Petitioners' properties, supra, and has now been vacated for lack of jurisdiction. Past activities and conduct by Conrail and the City have not

demonstrated anything like clarity or certainty concerning the Harsimus Branch and the Hudson Street Industrial Track. That is not a problem of Petitioners' making and they should not be subjected to further proceedings involving these issues when they played no part in any actual or perceived violation of ICC or Board regulations.

f. Severance of the Harsimus Branch from CP Waldo

31. The recent order of the Special Court, as affirmed by the Court of Appeals for the District, established only that the Harsimus Branch between CP Waldo and Marin Boulevard was conveyed to Conrail as a line of rail in 1976 subject to the regulation of the Interstate Commerce Commission, now this Board. **Exhibits A-1 and A-2.** As noted, Petitioners submitted the Dixon Declaration, prepared by a licensed surveyor and professional planner, which illustrated the locations of the relevant lines based on review of Conrail records. **Exhibit O.** For purposes of petition, the area of the Dixon Declaration pertinent to the present matter is excerpted and highlighted as **Exhibit T** to show the River Line. As confirmed by the Dixon Declaration, the River Line met the Harsimus Branch at a switch that was located approximately 750 feet to the of CP Waldo. **Exhibit O, paragraph 19, and Exhibit O-4.** That switch and CP Waldo are two distinct locations. As established by the Dixon Declaration, the underlying aerial photographs taken in 1976 and 1979 clearly show that between CP Waldo and the switch where the River met the Harsimus Branch there was only one track. This is the track that was identified in petition under NERSA in 2000, and the same track that was abandoned to CP Waldo in 2002 NERSA by the authority of the Board. It was also the same track and switch location identified track "211" and "215" on Conrail's 1985 track map. See, Exhibit G-1. In connection with Conrail's consummation of the River Line Abandonment (2002) that track was removed and no longer exists. See, Exhibit H. In its River Line Abandonment, Conrail described the point at

which the River Line connected to the Harsimus Branch as being at CP Waldo. This was entirely consistent with the reality that the Waterfront Rail Lines had long ago given way to intense urban redevelopment and there was absolutely no need to stop the abandonment at the switch where “215” from Petitioners’ properties and the waterfront intersected with the River Line. Doing so would have left useless track on property owned in fee by Conrail to no rational purpose. An illustration of Conrail’s position in the River Line Abandonment is shown superimposed on an aerial photograph at **Exhibit U**, which utilizes Attachment D to the Dixon Declaration as its base drawing. After extensive proceedings and numerous decisions issued by the Board on Conrail’s River Line Abandonment, the Board in 2002 authorized Conrail to abandon the River Line to CP Waldo. On May 1, 2002, Conrail filed a written notice of consummation of abandonment with Board. **Exhibit D**.

32. As established by the Dixon Declaration (**Exhibit O, paragraph 19**) and as also shown on **Exhibits O-1 and T**, this abandonment to CP Waldo included approximately 750 feet the single track running between CP Waldo and the switch where the Harsimus Branch diverged the east and continued toward Marin Boulevard across Petitioners’ properties, and beyond to the Hudson River, along with its connection to the Hudson Street Industrial Track. In its petition of 2000, Conrail included both the Hudson Street Industrial Track and the Harsimus Branch on the required map filed with its petition, and noted the Harsimus Branch and its connection to CP Waldo. Also, when Conrail’s River Line Abandonment petition was filed, there was, and had for many years, no freight traffic over the Harsimus Branch from CP Waldo eastward or on the Hudson Street Industrial Track. In fact, in 1983 and 1985, Conrail had given the required notice of insufficient revenues from rail operations under NERSA. These steps were reflected in the Board’s decisions in the River Line Abandonment proceedings.

2. REASONS FOR DECLARATORY RULING

33. Petitioners now face unfounded claims that an arbitrarily selected segment of the Harsimus Branch, which formally ran across their properties, must be subjected to the Board's jurisdiction and abandoned again, this time under 49 U.S.C.A. § 10903. The concept that a single track carrying a line of rail must be subjected to successive abandonment procedures has been declared by the Board to be "nonsensical" and "irrational." Alleghany Valley Railroad Company – Petition For Declaratory Order, supra, STB Docket FD 35239. The claim for multiple abandonments so that there could never be certainty that the Board's jurisdiction over a particular parcel had come to an end is so without merit that Petitioners have found only this one other instance where it has been necessary to address it. See, ibid. By contrast, the principle that the Board's jurisdiction terminates once a railroad consummates abandonment is well-settled. Equally well-settled is the principle that former lines of rail that have been isolated from the national rail network by a properly authorized abandonment are themselves abandoned de facto. RLTD Railway Corp., supra, 166 F.3d 808.

34. Such claims as have been made against Petitioners' property interests are all the more unfounded and unsupportable because the Board in 2002 granted abandonment approval under NERSA, which Congress enacted in full recognition that Conrail should be able to divest itself of regulatory obligations in a timely and expeditious manner. Claims made and pending thirty years after Conrail filed its first Notice of Insufficient Revenue, and which argue that an abandonment consummated under the provisions of NERSA should again be reviewed under 49 U.S.C.A. § 10903, fly in the face of congressional intent as to how the Board regulates abandonments. NERSA contains an explicit provision stating, "Any such application [for abandonment] shall be governed by this section and shall not, except as specifically provided in

this section, be subject to the provisions of chapter 109 of Title 49 [now codified as 49 U.S.C.A. 10903].” 45 U.S.C.A. § 748.

35. A declaratory ruling that the Board has no further regulatory jurisdiction over Petitioners’ property interests, is sought for the following reasons:

- a. Petitioners have a right to a resolution of jurisdictional claims for regulatory authority over their property and to petition for a declaratory ruling pursuant to 5 U.S.C.A. § 554.
- b. Conrail now has a pending, but stayed, petition for abandonment under 49 U.S.C.A. § 10903 (STB No. AB-167 (Sub No. 1189X)) that should not proceed if the Board lacks jurisdiction.
- c. A declaration by the Board that it has no remaining regulatory jurisdiction over Petitioners’ properties should eliminate clouds on title and impacts upon the use and enjoyment of numerous other properties of other owners on a large portion of the Hudson River waterfront that currently comprises Jersey City’s downtown financial district and “Gold Coast” that Conrail has never subjected to regulatory review.⁸ These properties were described in the Special Court litigation in a Declaration submitted by, Dean Marchetto, a New Jersey architect familiar with area, who explained why there is no continuing need for freight service. He also explains why these properties do not require rail service. The Declaration (“Marchetto Declaration”) is attached as **Exhibit V** to this petition.

⁸ Conrail’s pending abandonment petition does not address the remaining portions of these waterfront areas except for a few lightly developed parcels.

- d. Numerous cases in the courts of the State of New Jersey have been stayed for as much as eight years, pending a resolution of federal regulatory matters. Recently, the New Jersey Supreme Court has refused an application by Petitioners to lift those stays of proceedings.⁹ Petitioners believe and assert that the role and of the Board has been misrepresented to those courts, and that further delays in these matters constitutes a denial of Petitioners' right to due process and an abuse by others of the Board's processes and jurisdiction.¹⁰
- e. It is appropriate for the Board to declare Petitioners' property exempt pursuant to 49 U.S.C.A. § 10502 because no remnant of interstate commerce associated with rail freight remains, and Petitioners are not railroads, nor railroad customers This matter is now ripe for decision because Petitioners, through years of litigation the Special Court and associated appeals, have established that a regulated portion of the Harsimus Branch once ran from CP Waldo to a point at Marin Boulevard as Conrail acquired it in 1976. All other issues raised in the courts, including claims by Petitioners that they have been unjustly singled out for disparate regulatory treatment, have been preserved for further adjudication in an appropriate forum.
- Exhibit A-2.** The Board is the appropriate forum to adjudicate the issue of the Board's jurisdiction over Petitioners' properties.

⁹ 212 Marin Boulevard LLC et al., v. City of Jersey City et al., Docket No. HUD-L-4908-05, NJ Supreme Court docket number 073380. **Exhibit W.**

¹⁰ The state court cases presently stayed are 212 Marin Boulevard LLC et al., v. City of Jersey City et al., Docket No. HUD-L-4908-05 (Civil Rights Claim); 212 Marin Boulevard LLC et al., v. City of Jersey City et al., Docket No. HUD-L-4683-05 (Challenge to Planning Board Action); and 212 Marin Boulevard LLC et al., v. City of Jersey City Historic Preservation Commission et al., HUD-L-2451-08 (challenge to Zoning Board Action).

- f. Selectively targeting Petitioners for regulatory oversight of their real estate would be contrary to the common sense and common law treatment of real estate where there is no vestige of railroad interest, and none can be justified by convoluted arguments for special treatment under provisions of railroad law. See, Marvin M. Brandt Revocable Trust, supra, --- S.Ct.--- , S.Ct. No. 12-1173 (March 10, 2014).
- g. There is no overriding interest in interstate commerce as a matter of law. Under the Rail Transportation Policy (“RTP”) 49 U.S.C.A. § 10101, in regulating the rail industry, it is the policy of the United States to “minimize the need for Federal regulatory control over the rail transportation system and “provide for the expeditious handling and resolution of all proceedings.” Further proceedings involving Petitioners and affecting their property interests are neither necessary nor appropriate to resolve issues of past violations of Board regulations because Petitioners played no part in such actions. No such exception need be made for Conrail or Jersey City, but Petitioners are not necessary parties in such matters. The interests of the RTP would be furthered by granting the present petition and preserving the resources not only of the Petitioners and others, but most importantly, those of the Board.
- h. A declaratory ruling by the Board is the most expeditious and economical means of resolving numerous disputes that have consumed enormous regulatory, private, and judicial resources over many years.

36. Beyond the easterly end of Petitioners’ properties at Marin Boulevard and the easterly point of the Special Court’s adjudication, the Harsimus Branch continued to its terminus the Hudson River. The Hudson Street Industrial Track connected to the Harsimus Branch at a

east of and close to Marin Boulevard and proceeded for approximately 1.3 miles to its terminus within Jersey City. See, Dixon Declaration, **Exhibit O**. Conrail's pending abandonment petition includes the portion of the Harsimus Branch from CP Waldo to Marin Boulevard and some of Hudson Street Industrial Track to the east of Marin Boulevard, although it incorrectly identifies as a portion of the Harsimus Branch. As such, Conrail's petition neither fully nor accurately identifies the locations of the remaining portion of the Harsimus Branch as it runs to the Hudson River, nor does it identify any of the Hudson Street Industrial Track. Leaving this issue open unresolved, or to be resolved in further regulatory proceedings involving private or public owners who purchased land from Conrail, will create the possibility of even further contention this issue and a reprise of the litigation. The issue should be settled now.

37. Conrail, and other parties to state court litigation with Petitioners have taken the position that once any portion of a line of rail connecting the remainder of that, or other lines of to the national rail network undergoes an abandonment process that is properly consummated by the railroad, the remaining portions of those lines of rail are also abandoned de facto. The Board divested of jurisdiction and proceedings involving those former lines may not be reopened, particularly not for the imposition of conditions. Cf., Alleghany Valley Railroad Company, STB Docket FD 35239. In any event, reopening the prior abandonment would serve no purpose as the River Line Abandonment under NERSA does not admit of the imposition of conditions. Petitioners in this matter agree that the jurisdiction of the Board is terminated upon the consummated abandonment of a line of rail, and that jurisdiction also terminates over any other line of rail that is severed from the national rail network by such consummated abandonment. is particularly true when, as here, there remains no overriding interest in the maintenance of interstate commerce upon such consummated abandonment.

3. NO BASIS FOR CONTINUED BOARD JURISDICTION

38. There is no present or foreseeable need for freight service on the downtown Jersey City waterfront. The Harsimus Branch east of CP Waldo and the entire Hudson Street Industrial Track have been out of service since at least 1994, and are not needed for reactivation of regulated rail service. 49 U.S.C.A. § 10502(a). Indeed, when Conrail's River Line Abandonment was filed in 2000, there was, and had been for many years, no freight traffic over the Harsimus Branch, which is today Petitioners' property. The sale of property without reservation of any railroad operating rights to Conrail after the River Line Abandonment in 2002 simply confirmed these realities.

39. As early as the 1980's, aware of the decline of the importance of rail related activities, the City undertook an active program of urban revitalization and redevelopment in its downtown waterfront area. See, Marchetto Declaration, **Exhibit V**. In those places where trains had formerly run, luxury condominiums and rental apartments, high-end retail stores, restaurants, and Class A office uses have entirely displaced railroad uses. Literally billions of dollars have been invested in the development of Jersey City's "Gold Coast," including user occupied buildings of Wall Street giants such as Goldman Sachs. Also, the State of New Jersey's public transit agency, New Jersey Transit, has invested hundreds of millions of public transit dollars in the Hudson Bergen Light Rail system, which today utilizes much of the former right of way of the River Line and other areas formally occupied by freight tracks.

40. None of these properties have been abandoned or otherwise subjected to the Board's regulatory review by Conrail, and the City now argues that once any portion of a line of rail connecting the remainder of that or other lines of rail to the national rail network undergoes abandonment process that is properly consummated by the railroad, the remaining portions of

those lines of rail are also abandoned de facto. This is the argument of the parties who are, or in litigation against Petitioners in both state and federal courts. Petitioners agree that the jurisdiction of the Board terminates upon the consummated abandonment of a line of rail, and jurisdiction also terminates over any other line of rail that is severed from the national rail by such consummated abandonment. Such severance is perhaps the best evidence that no overriding interest in the maintenance of interstate commerce remains upon such consummated abandonment, and the exercise of Board jurisdiction in such a case would be imprudent. the jurisdiction of the Board cannot be manipulated to create an exception to these rules for the contrived purpose of advancing private disputes. There is no difference between the of Petitioners' properties and the same abandonment de facto of the rest of the Harsimus Branch the Hudson Street Industrial Track by virtue of the River Line Abandonment. If the River Line Abandonment left Petitioners subject to the Board's jurisdiction, it left the remainder of Jersey City's downtown waterfront also subject to the same jurisdiction. Petitioners do not argue for result; they just note it to underscore the impropriety and futility of any proceeding to subject any of these areas to the Board's jurisdiction under the facts of the case. Selectively targeting Petitioners for regulatory oversight of their real estate would be contrary to the common sense common law treatment of real estate where there is no vestige of railroad interest, and none can justified by convoluted arguments for special treatment under provisions of railroad law. See, Marvin M. Brandt Revocable Trust, supra, --- S.Ct.--- , S.Ct. No. 12-1173 (March 10, 2014). While the Board has an essential interest in not allowing Conrail or the City to flout its and proceedings for any reason, the Board should not allow Petitioners to be burdened by the misdeeds of others or proceedings to correct them.

41. Petitioners' primary position that its properties are no longer subject to Board jurisdiction is settled in law and precedent. Once a line is abandoned, either de facto or de jure, the Board no longer has jurisdiction, and title issues are matters of state law. Preseault, supra, 494 U.S. at 5-6 n. 3. Conrail's failure to formally include any portion of the Harsimus Branch or the Hudson Street Industrial Track in its 2000 River Line Abandonment application cannot be taken as evidence that it believed or intended that the Harsimus Branch would remain part of the national rail network once the abandonment of the River Line was consummated. In past ICC and Board abandonment proceedings, in determining whether abandonment was consummated, the intention of the railroad, and factors such as discontinuing service, cancelling tariffs, and removing rail improvements all indicate intent to abandon. See, Fritsch v. ICC, 59 F.3d 248 (D.C. Cir. 1995); Britt v. STB, 90 F.3d 580 (D.C. Cir. 1996); and Becker v. STB, 132 F.3d 60 (D.C. Cir. 1997). Conrail had no revenues or any customers on the Harsimus Branch or Hudson Street Industrial Track when it sought the abandonment of the River Line. In fact, the tracks, bridges, and other railroad equipment on the Harsimus Branch east of CP Waldo had all been removed years before, and its former rail customers had all been swept away by extensive real estate development and commuter light rail use. See, Marchetto Declaration - **Exhibit V**. Conrail made no mention of the Harsimus Branch or the Hudson Street Industrial Track in the River Line Abandonment. It sold the properties to Petitioners in 2005 without reserving any railroad operating rights of any kind, and on the representations that the property was not regulated. It would be unwarranted and unjust for the Board to subject Petitioners to the burdens of further regulatory proceedings, including the pending Conrail abandonment petition or any proceedings initiated by the Board ex parte to address other issues.

42. In RLTD Railway Corp., *supra*, 166 F.3d 808, a portion of a former line of rail known as the Leelanau Line had been severed from the national rail network by prior, intervening abandonments. The Court recognized that an abandonment de facto occurs when the line is no longer “linked to and part of the interstate rail system” citing the STB decision below. Id. at 812. The court then went on to state: “Although the parties cite to no case that deals specifically with a track that has fallen outside the STB’s jurisdiction because it has been severed from the national transportation system in some manner other than abandonment, once a line of track has been properly abandoned, the STB loses jurisdiction and cannot issue a trail condition. . . . It is reasonable for the STB to conclude that it loses jurisdiction when a track is no longer part of the interstate rail network” Id. at 814 (citations omitted). As established by Conrail’s own records, matters of record in prior related Board proceedings, historical photographs and the Exhibits submitted with this petition, the River Line Abandonment left the Harsimus Branch outside of the jurisdiction of the Board.

43. The “overriding interests of interstate commerce” discussed in RLTD certainly do not apply to the Hudson River waterfront, and it would be imprudent for the Board to impose its jurisdiction on such properties twelve years after the River Line Abandonment in which no one had even attempted to request any public use or trail conditions, voluntary or otherwise. Becker, *supra*, 132 F.3d at 62-63 (Board lacked jurisdiction to issue NITU after abandonment had been consummated). Regardless, as a matter of fact, there is no “overriding interest of interstate commerce” implicated here by a finding that Board jurisdiction has ended. Conrail’s 2000 River Line Abandonment disclosed all then-existing rail traffic on the waterfront; none of the then-existing traffic would have involved any portion of the Harsimus Branch east of CP Waldo the Hudson Street Industrial Track. In addition, as described, despite years of litigation on the

of whether or not the Harsimus Branch is a line of rail as it crosses over Petitioners' properties, there is absolutely no evidence of the need for continued rail service

44. Nor is there any overriding interest in interstate commerce as a matter of law. Under the RTP, in regulating the rail industry, it is the policy of the United States "to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required," and "to provide for the expeditious handling and resolution of all proceedings required or permitted to be brought under this part." 49 U.S.C.A. § 10101(2) and (15). Those proceedings were concluded in 2002 and should not be reopened, particularly piecemeal when the matter involves real estate disputes under state law. Those are simply not the business of the Board. The interests of the RTP would be furthered by granting the present petition and preserving the resources not only of the Petitioners and others, but most importantly, those of the Board

45. There is simply no interest in interstate commerce or any RTP interest in requiring a second abandonment of the same track. This is not a question of whether there were two separate tracks; there was only one. As noted, the Board has recognized that the argument that multiple abandonments of the same track is both "irrational" and "nonsensical." See, Alleghany Valley Railroad Company – Petition For Declaratory Order, STB Docket FD 35239, Service Date June 15, 2010, at p. 8.

4. EXEMPTION UNDER 49 U.S.C.A. § 10502

46. The Board should therefore declare the Harsimus Branch exempt from further regulation under 49 U.S.C.A. § 10502. Under section 10502, the Board must exempt a person, class of persons, transaction, or service from a provision of law when it finds that: (1) regulation not necessary to carry out the rail transportation policy of 49 U.S.C.A. § 10101; and (2) either (a)

the transaction or service is of limited scope, or (b) regulation is not needed to protect shippers from the abuse of market power. The imposition of any regulation or condition upon Petitioners their properties is not necessary to carry out the rail transportation policy of 49 U.S.C.A. § 10101 there is absolutely no rail activity in downtown Jersey City and no reasonable present prospect of anyone taking steps to resume such service. Without any chance that rail service is even possible—the City’s zoning does not envision industrial, much less rail, uses—such an is of the most limited possible scope. As noted, the only connection with the national rail has been dismantled. The exemption would simply confirm reality. Certainly there are no “shippers” that need or will foreseeably need protection.

47. The interests of the Board and its jurisdiction are best protected by declaring its jurisdiction over the Harsimus Branch to have ended, and over railroads are best protected by declaring the Harsimus Branch to have ended, rather than to open the door to contrived attempts to have the Board assert jurisdiction where there is no impact on interstate commerce. Magner O. S. Railway v. Interstate Commerce Com., 692 F.2d 441, 444 (6th Cir. 1982). (The STB “enjoys considerable discretion in its determination of jurisdictional facts).

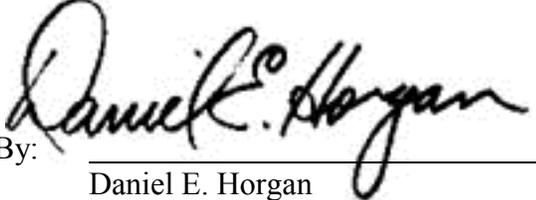
SUMMARY

48. The 2002 River Line Abandonment by Conrail was opposed by the last two remaining, and isolated, rail freight users on the Hudson River waterfront between Jersey City Weehawken New Jersey. Those were Dykes Lumber Company, which operated in Weehawken, and Cognis, which operated in Hoboken. They represented the last vestige of interstate through rail freight service to be served by a connection to CP Waldo, all remaining industrial having been replaced by urban redevelopment served by a state operated public transit system. Board’s 2002 abandonment authorization, consummated by Conrail, was proper in all respects

terminated the Board's jurisdiction over the River Line, and over Petitioners' properties, the long-standing reality that there is no need or justification for the Board to exercise its jurisdiction here. Arguments to the contrary are an abuse in violation of the Board's jurisdiction and administrative process, and should not be tolerated.

49. Petitioners respectfully request that the Board issue a declaratory order terminating all jurisdiction of the Board over the former rail lines to the east of CP Waldo on Petitioners' properties. Petitioners are neither railroads, nor railroad customers. They are property owners who purchased land, in fee, for purposes of non-industrial, commercial development. There is no basis for the Board to regulate their activities or to become part of contrived arguments of railroad law to be used as leverage in state court property disputes. And there is certainly no basis that any final Board abandonment authority, consummated twelve years ago by the railroad, should be re-opened to the detriment of Petitioners or anyone similarly affected. ~~50~~ If any factual issues are raised in opposition to this Petition, Petitioners request full discovery on such issues. 49 C.F.R. § 1114.21, et seq.

WATERS, McPHERSON, McNEILL, P.C.

By: 
Daniel E. Horgan

Dated: May 8, 2014

LIST OF EXHIBITS TO PETITION

Exhibit A-1: Order and Memorandum Opinion in City of Jersey City et al. v. Conrail et al., U.S. District Court, District of Columbia, docket number 09-1900 (ABJ), dated September 30, 2013 (11 pages)

Exhibit A-2: Order, United States Court of Appeals for the D.C. Circuit, granting summary disposition, dated February 19, 2014 (2 pages)

Exhibit B: Letter from Jersey City Mayor McCann to Conrail Chairman L.S. Crane, December 18, 1984 (2 pages)

Exhibit C: Conrail's Application for Abandonment of River Line, dated November 13, 2000, including: (a) cover letter, (b) service list; (c) Application; (d) verification; (e) certificate of service; and (f) Exhibit B, thereto: Location Map, River Line (14 pages)

Exhibit D: Conrail Letter to Vernon A. Williams, Secretary of Surface Transportation Board, May 1, 2002, confirming Conrail abandonment of River Line and Weehawken Branch, Hudson County, New Jersey

Exhibit E: Petitioners' deeds from Conrail, dated July 12, 2005 (eight total)

Exhibit F: Deed, Fairfax Leary as Trustee for United New Jersey railroad and Canal Company, to Conrail, recorded October 12, 1978 (excerpted)

Exhibit G-1: Conrail Track Map, Zone 17, page 1 (1985)

Exhibit G-2: Conrail Track Map, Zone 17, page 2 (1985)

Exhibit G-3: Conrail Track Map, Zone 18, page 1 (1985)

Exhibit H: Declaration of Daniel E. Horgan filed on September 6, 2012 in matter captioned City of Jersey City et al. v. Conrail et al., U.S. District Court, District of Columbia, docket number 09-1900 (ABJ), with exhibits and original cover sheet (14 pages)

Exhibit I: Conrail memorandum, dated January 28, 1985

Exhibit J: Conrail memorandum, dated January 15, 1988

Exhibit K-1: City of Jersey City City Council memo, dated February 14, 1992

Exhibit K-2: Letter from Engineer of the City of Jersey City to Conrail, dated February 19, 1992

Exhibit K-3: Letter from Conrail letter to Construction Official of the City of Jersey City, dated May 11, 1992

Exhibit L: Internal Jersey City Memorandum dated April 14, 1994 re: Conrail Marion Junction Project 89-032

Exhibit M: Internal Jersey City Memorandum dated March 29, 1994 re: Removal of Conrail 6th Street Viaduct Project No. 92-008

Exhibit N: New Jersey Transit Hudson-Bergen Light Rail map (retrieved from http://www.njtransit.com/pdf/LightRail/sf_lr_hblr_map.pdf on May 8, 2014)

Exhibit O: Declaration of David B. Dixon, PLS, consisting of:

- Cover sheet filing document as Document ECF #82 in U.S. Dist. Ct. (D.C.); Docket CV-09-1900 (CKK)
- Declaration pages 1 through 12; paragraphs 1 through 20

Exhibit O-1: Attachment A to Dixon Declaration

Exhibit O-2: Attachment B to Dixon Declaration

Exhibit O-3: Attachment C to Dixon Declaration

Exhibit O-4: Attachment D to Dixon Declaration

NOTE: The four Attachments to the Dixon Declaration, A through D, are layered PDF documents as described in the Declaration. Those are being provided to the Board in DVD format and will be provided to anyone on the service list in that format upon request.

Exhibit P: Conrail's Notice of Intent to file for an Exemption for Abandonment and Discontinuance of Service STB Docket No. AB 167 Sub No. 1189X, dated March 6, 2008

Exhibit Q: Correspondence of Charles Montange, Esq., to the Surface Transportation Board in of March 28, 2008, in the matter In Re Consolidated Rail Corporation Abandonment - in Hudson County, NJ AB-167 (Sub No. 1189x) and related proceedings

Exhibit R: Decision, Surface Transportation Board, docket number EP 695, dated May 13, 2010 (4 pages)

Exhibit S: Conrail's Report Regarding Line Sales and Discontinuances since January 1, 1996, STB docket number EP 695, dated September 27, 2010 (4 pages)

Exhibit T: Attachment B to Dixon Declaration viewed as:

- Aerial 1976 Robinson
- Line 1420 - 1976-1979 per Analysis
- Line 1440 - 1976-1979 per Analysis
- Line Former Penn RR Mail Line
- Line River Line – Weehawken Branch

Exhibit U: Aerial Photo, base image Robinson 1979, as copied from Dixon, Attachment D, and annotated to show River Line (green), switch in River Line connecting Harsimus Branch to waterfront (white), and old Pennsylvania R.R. main line (yellow). The highlighting also shows the River Line (green) running with the Harsimus Branch (red) on a single track between C.P. Waldo and the Switch (both circled in white).

Exhibit V: Declaration of Dean Marchetto, consisting of:

- Cover sheet filing document as Document ECF #81-26 in U.S. Dist. Ct. (D.C.); Docket CV-09-1900 (CKK)
- Declaration pages 1 through 8 paragraphs 1 through 16

Exhibit W: 212 Marin Blvd., LLC et al. v. City of Jersey City et al., Supreme Court of New Jersey, docket number 073380, order (denying motion for leave to appeal), dated February 4, 2014 (1 page)

VERIFICATION OF PETITION

Daniel E. Horgan, Esq., hereby verifies as follows:

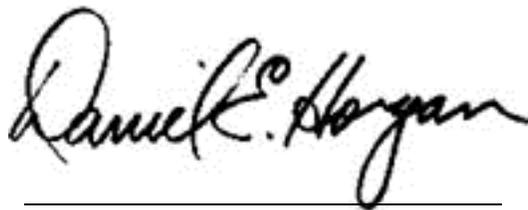
1. I am an attorney-at-law admitted to practice before the United States District Court for the District of Columbia and the State of New Jersey and that I am lead counsel for the nine Limited Liability Company Petitioners in this matter. I make this verification in support of the Petitioners' Petition appended hereto based on my knowledge and as the attorney for the Petitioners.

2. The facts and representations set forth in the aforementioned Petition are true and correct to the best of my knowledge, information and belief.

3. The exhibits attached to the aforementioned Petition hereto as Exhibits A-1 through W are true and correct copies of the documents they purport to the best of my knowledge, information and belief.

4. I am qualified and authorized to file this petition

I verify under penalty of perjury that the foregoing is true and correct.



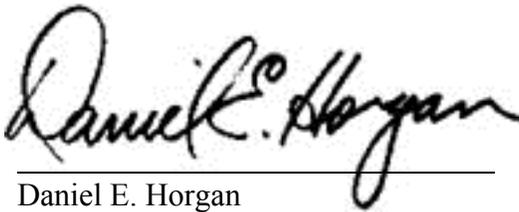
By: _____

Daniel E. Horgan

Dated: May 8, 2014

CERTIFICATE OF SERVICE

I, Daniel E. Horgan, an attorney-at-law of New Jersey, New York, and the District of Columbia, hereby certify that on May 8, 2014, I caused service of this filing with the Surface Transportation Board to be made upon the Board by Electronic Filing and that all parties on the following service list were served by First Class Mail in accordance with the provisions of 49 C.F.R. §1104.12.

By: 
Daniel E. Horgan

Dated: May 8, 2014

SERVICE LIST

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Counsel for Rails to Trails Conservancy (RTC)
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General Counsel
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Former Counsel for LLCs
Fritz Kahn, Esq.
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And the following self-represented individuals or entities:

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Daniel D. Saunders
NJ Department of Environmental Protection
State Historic Preservation Office
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Valerio Luccio
Civic JC

ADDRESS UNKNOWN

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

EXHIBIT A-1

Exhibit A-1

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Order and Memorandum Opinion in City of Jersey City et al. v. Conrail et al., U.S. District Court, District of Columbia, docket number 09-1900 (ABJ), dated September 30, 2013

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

<hr/>)
CITY OF JERSEY CITY, <i>et al.</i> ,)
)
Plaintiffs,)
)
v.	Civil Action No. 09-1900 (ABJ))
)
CONSOLIDATED RAIL)
CORPORATION,)
)
Defendant,)
)
and)
)
212 MARIN BOULEVARD, LLC, <i>et al.</i> ,)
)
Intervenor-Defendants.)
)
and)
)
PAULA T. DOW,)
<i>Acting Attorney General of the</i>)
<i>State of New Jersey,</i>)
)
Intervenor.)
)
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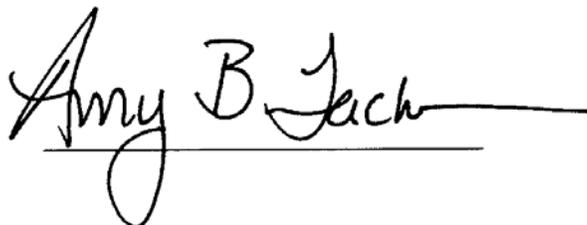
ORDER

Pursuant to Federal Rule of Civil Procedure 58 and for the reasons set forth in the accompanying Memorandum Opinion, it is

ORDERED that plaintiffs’ renewed motion for summary judgment [Dkt. # 79] is **GRANTED**; and it is further

ORDERED that intervenor-defendants' motion for leave to file an amended answer [Dkt. # 86] is **DENIED**.

This is a final appealable order.

A handwritten signature in black ink that reads "Amy B. Jackson". The signature is written in a cursive style with a horizontal line underneath the name.

AMY BERMAN JACKSON
United States District Judge

DATE: September 30, 2013

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

<hr/>)
CITY OF JERSEY CITY, <i>et al.</i> ,)
)
Plaintiffs,)
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v.)
	Civil Action No. 09-1900 (ABJ))
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CONSOLIDATED RAIL)
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)
Intervenor-Defendants.)
)
and)
)
PAULA T. DOW,)
<i>Acting Attorney General of the</i>)
<i>State of New Jersey,</i>)
)
Intervenor.)
)
<hr/>)

MEMORANDUM OPINION

Pending before the Court are two motions: a motion for leave to file an amended answer by intervenor-defendants 212 Marin Boulevard, LLC; 247 Manila Avenue, LLC; 280 Erie Street, LLC; 317 Jersey Avenue, LLC; 354 Cole Street, LLC; 389 Monmouth Street, LLC; 415 Brunswick Street, LLC; and 446 Newark Avenue, LLC,¹ [Dkt. # 86], and a renewed motion for summary judgment by plaintiffs City of Jersey City, Rails to Trails Conservancy, and Pennsylvania Railroad Harsimus Stem Embankment Preservation Coalition, [Dkt. # 79]. The

1 Intervenor-Defendants will be referred to collectively as “the LLCs.”

Court will deny the motion to amend because the LLCs' amended answer would alter the nature and scope of the litigation and would prejudice the other parties by unnecessarily delaying resolution of this action. It will grant the renewed motion for summary judgment because the parties have stipulated to the sole factual issue in this case, no genuine issues of material fact remain, and plaintiffs are entitled to judgment as a matter of law.

BACKGROUND

This lawsuit concerns a portion of rail property known as the Harsimus Branch, between CP Waldo and Luis Munoz Marin Boulevard in Jersey City, New Jersey ("Harsimus Branch"). Compl. [Dkt. # 1] ¶ 1. The Harsimus Branch was conveyed to defendant Consolidated Rail Corporation ("Conrail") in 1976 pursuant to the Regional Railroad Reorganization Act of 1973, 45 U.S.C. § 741; 45 U.S.C. § 1301. *Id.* ¶ 12. The specific question before the Court in this case is whether the Harsimus Branch conveyed at that time was a railroad "line" or a "spur." *Id.* ¶ 6. This distinction matters because before a railroad can abandon or discontinue operations on a rail line, it must obtain authorization from the Surface Transportation Board ("STB"), formerly the Interstate Commerce Commission. *See* 49 U.S.C. § 10903 (2006). This requirement does not apply to spurs. *Id.* § 10906. In 2005, defendant Conrail purported to sell the Harsimus Branch to intervenor-defendants, but it did not have abandonment authorization from the STB at that time. Compl. ¶ 19. Since then, the Harsimus Branch has been the subject of protracted litigation.

In January 2006, plaintiffs, along with a New Jersey state assemblyman, petitioned the STB for an order declaring that Conrail was required to obtain authorization from the STB to abandon the Harsimus Branch. *Consolidated Rail Corp. v. Surface Transp. Bd.*, 571 F.3d 13, 17 (D.C. Cir. 2009), citing *City of Jersey City – Petition for Declaratory Order*, STB Fin. Docket No. 34818, 2007 WL 2270850 at *1 (Aug. 9, 2007) ("STB Order"), *recons. denied*, Docket No.

34818, 2007 WL 4429517 (Dec. 19, 2007) (“STB Recons. Order”). In August 2007, the STB determined that the Harsimus Branch is “subject to the [STB’s] exclusive jurisdiction until appropriate abandonment authority is obtained.” *See id.*, citing STB Order, 2007 WL 2270850 at *7. The STB subsequently denied a petition for reconsideration of that order. *Consolidated Rail Corp.*, 571 F.3d at 17, citing STB Recons. Order, 2007 WL 4429517 at *6.

The STB Order was appealed to the United States Court of Appeals for the District of Columbia Circuit, which ruled only on the procedural ground that the STB did not have authority to determine whether a railroad track is a line or a spur for purposes of abandonment authorization. *See Consolidated Rail Corp.*, 571 F.3d at 20. The Court of Appeals ruled that this court has exclusive jurisdiction to determine that issue, while the STB has exclusive jurisdiction to determine whether to authorize abandonment of a line. *Id.*

After the Court of Appeals issued that decision, the parties filed this lawsuit on October 7, 2009, seeking a ruling on whether the Harsimus Branch was conveyed as a line subject to STB jurisdiction. Compl. ¶ 49. The specific question before the Court is whether the Harsimus Branch was conveyed to Conrail as a line or a spur. *Id.* ¶ 6. On September 28, 2010, the court ruled, without reaching the merits, that plaintiffs lacked standing. *City of Jersey City v. Consolidated Rail Corp.*, 741 F. Supp. 2d 131, 149 (D.D.C. 2010), *rev’d*, 668 F.3d 741 (D.C. Cir. 2012). Plaintiffs appealed and the Court of Appeals reversed, *City of Jersey City v. Consolidated Rail Corp.*, 668 F.3d 741 (D.C. Cir. 2012), remanding the case back to the court on March 23, 2012, for further proceedings, [Dkt. # 61].² The parties filed status reports with the

² On May 3, 2012, the case was reassigned to Judge Kollar-Kotelly. *See* Reassignment of Civil Case [Dkt. # 62]. It was transferred to this Court on September 20, 2013. *See* Reassignment of Civil Case [Dkt. # 96].

court, and on June 25, 2012, the court issued an order to govern proceedings. Sched. and Procs. Order [Dkt. # 77].

On July 10, 2012, the parties filed a joint stipulation in which plaintiffs and intervenor-defendants stipulated that the Harsimus Branch was conveyed to Conrail as a line subject to the STB's abandonment jurisdiction. Joint Stipulation [Dkt. # 78] at 1. They further stipulated that defendant Conrail and intervenor Attorney General of New Jersey would not raise any facts or arguments in opposition to that stipulation. *Id.* In light of this, on August 15, 2012, plaintiffs filed a renewed motion for summary judgment. Renewed Mot. for Summ. J. [Dkt. # 79]. The LLCs oppose the renewed motion, Mem. of Law on Behalf of the LLCs in Opp. to Pls.' Mot. for Summ. J. [Dkt. # 81], and filed a motion seeking leave to file an amended answer to add counterclaims and cross-claims, Mot. for Leave to File an Am. Answer [Dkt. # 86].

STANDARD OF REVIEW

I. Motion to Amend

According to Federal Rule of Civil Procedure 15(a)(2), the Court should “freely give leave [to amend] when justice so requires.” The decision to grant leave to file an amended pleading is at the discretion of the Court. *Firestone v. Firestone*, 76 F.3d 1205, 1208 (D.C. Cir. 1996). Such leave is appropriate “in the absence of undue delay, bad faith, undue prejudice to the opposing party, repeated failure to cure deficiencies, or futility.” *Richardson v. United States*, 193 F.3d 545, 548–49 (D.C. Cir. 1999), citing *Foman v. Davis*, 371 U.S. 178, 182 (1962).

II. Summary Judgment

Summary judgment is appropriate “if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a). The party seeking summary judgment bears the “initial responsibility of informing the

district court of the basis for its motion, and identifying those portions of the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, which it believes demonstrate the absence of a genuine issue of material fact.” *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986) (internal quotation marks omitted). To defeat summary judgment, the non-moving party must “designate specific facts showing that there is a genuine issue for trial.” *Id.* at 324 (internal quotation marks omitted). The existence of a factual dispute is insufficient to preclude summary judgment. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247–48 (1986). A dispute is “genuine” only if a reasonable fact-finder could find for the non-moving party; a fact is only “material” if it is capable of affecting the outcome of the litigation. *Id.* at 248; *Laningham v. U.S. Navy*, 813 F.2d 1236, 1241 (D.C. Cir. 1987). In assessing a party’s motion, the court must “view the facts and draw reasonable inferences ‘in the light most favorable to the party opposing the summary judgment motion.’” *Scott v. Harris*, 550 U.S. 372, 378 (2007) (alterations omitted), quoting *United States v. Diebold, Inc.*, 369 U.S. 654, 655 (1962) (per curiam).

ANALYSIS

I. The LLCs’ Motion for Leave to File an Amended Answer

The court granted the LLCs’ motion to intervene as defendants in this action on May 10, 2010. Minute Order (May 10, 2010). Federal Rule of Civil Procedure 13 does not distinguish between intervenors and other parties with respect to their ability to assert counterclaims or cross-claims. *See, e.g.*, Fed. R. Civ. P. 13(g) (“A pleading may state as a crossclaim any claim by one party against a coparty”); *see also Consolo v. Fed. Mar. Comm’n*, 383 U.S. 607, 617 n.14 (1966) (“[A]n intervenor of right may assert a cross-claim without independent jurisdictional grounds[.]”). But it is also well-established that “one of the most usual procedural

rules is that an intervenor is admitted to the proceeding as it stands, and in respect of the pending issues, but is not permitted to enlarge those issues or compel an alteration of the nature of the proceeding.” *Vinson v. Wash. Gas Light Co.*, 321 U.S. 489, 498 (1944); *see also EEOC v. Woodmen of the World Life Ins. Soc’y*, 330 F. Supp. 2d 1049, 1055 (D. Neb. 2004) (holding that an intervenor could not assert a cross-claim that would “improperly expand the scope of the proceedings before this court”); *Seminole Nation v. Norton*, 206 F.R.D. 1, 7 (D.D.C. 2001) (denying a potential intervenor’s request to intervene and present claims that fell outside of the scope of the litigation); *Marvel Entm’t Grp., Inc. v. Hawaiian Triathlon Corp.*, 132 F.R.D. 143, 146 (S.D.N.Y. 1990) (stating that an intervenor may not assert additional claims that “needlessly expand the scope and costs of th[e] litigation and . . . thus prejudice the rights of” the other parties to expeditiously resolve the action).³ But even if one reads Federal Rule of Civil Procedure 24 broadly to accord an intervenor the full rights of any participant in a lawsuit, a motion to amend any party’s pleading to add new claims is committed to the Court’s discretion and governed by the factors that would ordinarily pertain under Federal Rule of Civil Procedure 15. Here, the LLCs move – after entry of a joint stipulation that resolves the single issue raised in this case – to expand the issues in the case and alter the nature of this proceeding.

This action sought a declaratory judgment on the narrow question of how the Harsimus Branch was conveyed to Conrail. The LLCs assert that there is a broader dispute concerning property beyond the portion of rail track addressed in the complaint, and they want to amend

³ In a case involving a direct petition from agency action under 28 U.S.C. § 2344, the D.C. Circuit stated, “Intervenors may only argue issues that have been raised by the principal parties; they simply lack standing to expand the scope of the case to matters not addressed by the petitioners in their request for review.” *Nat’l Ass’n of Regulatory Util. Comm’rs v. Interstate Commerce Comm’n*, 41 F.3d 721, 729 (D.C. Cir. 1994). Although not directly applicable to this situation, that statement tends to support the proposition that an intervenor cannot expand the scope of the action.

their answer to add counterclaims and cross-claims “for a full and fair consideration of the issues in this case.” Mem. of Law in Supp. of Defs.-Intervenors LLCs’ Mot. for Leave to File an Am. Answer (“LLCs’ Mem.”) [Dkt. # 86-1] at 1. Their new claims include, among others, a claim for declaratory judgment about the broader disputed property, including another rail line, the Hudson Street Industrial Track. *Id.* at 3; Am. Answer [Dkt. # 87] ¶ 96. They also seek to add state law claims against Conrail for fraud and negligent misrepresentation related to Conrail’s conveyance of the Harsimus Branch to the LLCs. Am. Answer ¶¶ 115–48.

The LLCs argue that no discovery has taken place in this case and contend their motion is timely given the procedural history of this case. But the case they cite for their argument that their motion is timely is distinguishable from this case. In *Harrison v. Rubin*, 174 F.3d 249 (D.C. Cir. 1999), the Court of Appeals ruled that there is no undue delay “[w]here an amendment would do no more than clarify legal theories or make technical corrections.” *Id.* at 253. But here the LLCs do not seek to simply change a statutory citation to clarify legal theories or make technical corrections, as in *Harrison*. They seek to expand the scope of the case beyond the track at issue and to add state law claims that require the Court to delve into their commercial negotiations with Conrail. This would introduce entirely new legal and substantial factual issues to the case. See *Williamsburg Wax Museum, Inc. v. Historic Figures, Inc.*, 810 F.2d 243, 247 (D.C. Cir. 1987) (holding that the district court properly denied motion to amend complaint where amendment would have introduced an entirely new issue into the case). The LLCs acknowledge as much. LLCs’ Mem. at 20 (“The counterclaim, likewise, primarily deals with new legal theories. The counterclaims raise many new facts . . .”); *id.* at 21 (acknowledging that “the fraud count introduces new factual issues”).

And the argument that no discovery has taken place does not aid the LLCs' position. No discovery is needed to resolve the issue before the Court, but the LLCs' proposed amendment would require extensive discovery, particularly as to the fraud and negligence claims – which the Court notes do not even involve all the parties in this case.

The LLCs' new claims go significantly beyond the narrow legal question involved in this litigation, as they address property beyond the Harsimus Branch and numerous factual issues and state law claims arising out of their commercial dispute with Conrail.⁴ Allowing this amendment would prejudice the other parties by expanding this litigation far beyond the original question presented and causing substantial delay in the resolution of this case. By contrast, a denial of the motion to amend does not prejudice the LLCs because they are free to raise their claims in separate litigation. Accordingly, the Court will deny the LLCs' motion for leave to file an amended answer.

II. Renewed Motion for Summary Judgment

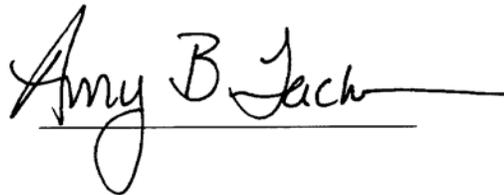
In light of the Court's decision to deny the LLCs' motion to amend and the parties' stipulation of July 10, 2012, this case presents no genuine issues of material fact and so may be properly decided on summary judgment as a matter of law. *See* Fed. R. Civ. P. 56(a); *Celotex Corp.*, 477 U.S. at 323. Again, the complaint presents one question: whether the Harsimus Branch was conveyed to Conrail in 1976 as a line subject to the STB abandonment jurisdiction.

⁴ In its opposition to the LLCs' motion for leave to amend, Conrail raises significant questions about whether this Court, sitting as the Special Court under the Regional Railroad Reorganization Act of 1973, has the power to exercise supplemental jurisdiction over the new state law claims. Conrail's Opp. to Def.-Intervenors' Mot. for Leave to File an Amended Answer [Dkt. # 89], at 19–22, citing *Consolidated Rail Corp.*, 571 F.3d at 18 n.11. But even if it does, the Court would still have to determine that the issues derived from a “common nucleus of operative fact,” *see United Mine Workers v. Gibbs*, 383 U.S. 715, 725 (1966), and even then, the exercise of jurisdiction would be discretionary. *See id.* at 726; 28 U.S.C. § 1367.

As the D.C. Circuit held in *Consolidated Rail Corp.*, the district court has “exclusive jurisdiction to decide the antecedent question if it arises” of whether a track at issue “was conveyed . . . as ‘part of [the rail carrier’s] railroad lines’” subject to the STB’s abandonment jurisdiction. 571 F.3d at 20 (alteration in original), citing 49 U.S.C. § 10903(a)(1)(A). If so, then the STB “retains its authority under sections 10903 and 10906 to approve or deny an abandonment application.” *Id.* Given that the parties have now stipulated that the Harsimus Branch was conveyed to Conrail as a line and not a spur, the Court rules that the Harsimus Branch “was conveyed . . . as ‘part of [the rail carrier’s] railroad lines’” subject to the STB’s abandonment jurisdiction.

CONCLUSION

For the reasons stated above, the Court will deny the LLCs’ motion for leave to file an amended answer and will grant plaintiffs’ renewed motion for summary judgment. A separate order will issue.

A handwritten signature in black ink that reads "Amy B. Jackson". The signature is written in a cursive style and is positioned above a solid horizontal line.

AMY BERMAN JACKSON
United States District Judge

DATE: September 30, 2013

Exhibit A-2

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Order, United States Court of Appeals for the D.C. Circuit, granting summary disposition, dated February 19, 2014 (2 pages)

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13-7175**September Term, 2013****1:09-cv-01900-ABJ****Filed On:** February 19, 2014

City of Jersey City, et al.,

Appellees

v.

Consolidated Rail Corporation and Paula T.
Dow, Acting Attorney General of the State of
New Jersey,

Appellees

212 Marin Boulevard, LLC, et al.,

Appellants

BEFORE: Tatel, Brown, and Millett, Circuit Judges**ORDER**

Upon consideration of the motion for summary affirmance and the supporting response thereto, appellants' opposition, and the replies, it is

ORDERED that the motion be granted, and the district court's order filed September 30, 2013, be summarily affirmed. The merits of the parties' positions are so clear as to warrant summary action. See Taxpayers Watchdog, Inc. v. Stanley, 819 F.2d 294, 297 (D.C. Cir. 1987) (per curiam). The district court did not abuse its discretion in denying appellants' motion for leave to file an amended answer, because the amendment was untimely (requested three years after the complaint was filed and on the eve of final resolution of the case); amendment would substantially alter the nature and scope of the litigation by introducing entirely new legal theories and disputes; and allowing amendment at this late juncture would unduly prejudice the other parties by unjustifiably delaying resolution of the action. See Williamsburg Wax Museum, Inc. v. Historic Figures, Inc., 810 F.2d 243, 247-48 (D.C. Cir. 1987) (denial of motion to amend based on delay, injection of new issues, and prejudice to opposing parties was within the district court's discretion). As appellants acknowledged in district court, the proffered claims presented entirely new legal theories and many new facts, extending beyond the dispute presented by the original complaint. In addition, denial of

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13-7175**September Term, 2013**

the motion to amend will not unduly prejudice appellants because they remain free to press their new claims in independent litigation (subject to any relevant defenses or procedural barriers).

Furthermore, the district court properly granted summary judgment for the plaintiffs, based on its ruling that the portion of the Harsimus Branch at issue (running from the former railroad control point of CP Waldo to Marin Boulevard) was conveyed to the Consolidated Rail Corporation as part of the rail carrier's railroad lines, subject to the jurisdiction of the Surface Transportation Board to authorize abandonment of that railroad line. No. 09cv1900, 2013 WL 5423964 (D.D.C. Sept. 30, 2013); see 49 U.S.C. § 10903(a); Consol. Rail Corp. v. STB, 571 F.3d 13, 18-20 (D.C. Cir. 2009).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. Rule 41.

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

BY: /s/
Timothy A. Ralls
Deputy Clerk

EXHIBIT B

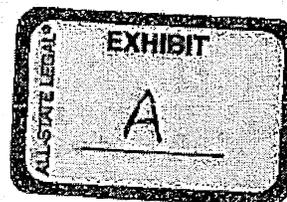
Exhibit B

In support of Petitioners' Petition for a Declaratory Order

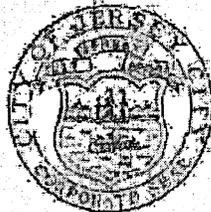
Nature of Exhibit:

Letter from Jersey City Mayor McCann to Conrail Chairman L.S. Crane, December 18, 1984
(2 pages) with transcription

CITY OF
JERSEY CITY



GERALD MCCANN
Mayor



CITY HALL
JERSEY CITY, N.J. 07302
(201) 547-5200

December 18, 1984

L.S. Crane, Chairman
Consolidated Rail Corporation
1838 46 Penn Center
Philadelphia, Pennsylvania 19104

Dear Mr. Crane:

With the development of New Jersey's Hudson River Waterfront, the demand for freight railroads is dwindling. Investors purchasing outmoded industrial facilities have begun their redevelopment into higher-use offices and residential complexes. This is a phenomena with which Conrail is intimately familiar as you have sold several surplus parcels to facilitate Jersey City's waterfront development activities. At the same time, however, underutilized railroad property and trackage which services the remaining industrial facilities has become an impediment to the redevelopment of entire development tracts along the Hudson River.

As Conrail is well aware through its current negotiations, this is the present case with the P&H Branch and the Sixth Street trestle serving the Hudson Street tracks in Jersey City. Although the majority of the property at this location is under contract to the ASH Development Company, the remaining active tracks cut a diagonal line through a forty acre waterfront development site. The line then runs at street grade bisecting two major office projects to the south: the Harborside Financial Center, a two million square foot rehab project where the Bankers Trust Company is already leasing almost one-half million square feet of office space, and a seventeen story, 325,000 square foot office building under construction by an affiliate of the Evergreen Shipping Lines.

The line continues along Hudson Street at grade, crossing both Christopher Columbus Drive and Montgomery Street which will serve as main arteries to the imminent commercial developments at Exchange Place.

Because of the dramatically changing land uses in the area, I believe you will agree that the time of the freight line service on this line has passed. I suggest we meet in the near future to discuss the discontinuance of this impediment and to select an alternate means of serving your remaining customers.

Page Two
December 18, 1984
L.S. Crane, Chairman.

Because of the dramatically changing land uses in the area, I believe you will agree that the time of the freight line service on this line has passed. I suggest we meet in the near future to discuss the discontinuance of this impediment and to select an alternate means of serving your remaining customers.

My office will be in contact immediately after the Holidays to arrange a date.

Very truly yours,



Gerald McCaffin
Mayor

GMcCaffin

TRANSCRIPTION OF EXHIBIT A

December 18, 1984

L. S. Crane, Chairman
Consolidated Rail Corporation
1838#6 Penn Center
Philadelphia, Pennsylvania 19104

Dear Mr. Crane:

With the development of New Jersey's Hudson River Waterfront, the demand for freight railroads is dwindling. Investors purchasing outmoded industrial facilities have begun their redevelopment into higher use offices and residential complexes. This is a phenomenon with which Conrail is intimately familiar as you have sold several surplus parcels to facilitate Jersey City's waterfront development activities. At the same time, however, underutilized railroad property and trackage which services the remaining industrial facilities has become an impediment to the redevelopment of entire development tracts along the Hudson River.

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The line continues along Hudson Street at grade crossing both Christopher Columbus Drive and Montgomery Street which will serve as main arteries to the imminent commercial development at Exchange Place.

Because of the dramatically changing land uses in the area, I believe you will agree that the time of the freight line service on this line has passed. I suggest we meet in the near future to discuss the discontinuance of this impediment and to select an alternative means of serving your remaining customers. *[The foregoing paragraph appears twice, consecutively in the original letter]*

My office will be in contact immediately after the Holidays to arrange a date.

Very truly yours,

Gerald McCann
Mayor

EXHIBIT C

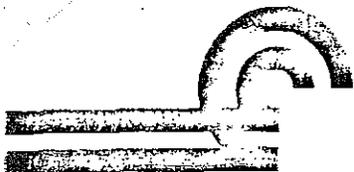
Exhibit C

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Conrail's Application for Abandonment of River Line, dated November 13, 2000, including:
(a) cover letter, (b) service list; (c) Application; (d) verification; (e) certificate of service; and
(f) Exhibit B, thereto: Location Map, River Line (total 14 pages)

ONRAIL[®]



November 13, 2000

UPS NEXT DAY AIR

Vernon A. Williams
Secretary, Surface Transportation Board
Mercury Building, Room 700
1925 K Street, N.W.
Washington, DC 20423

Re: STB No. AB-167 (Sub-No. 1067N)
Consolidated Rail Corporation --
Abandonment of the River Line -- In Hudson County, New Jersey

Dear Mr. Williams:

Enclosed for filing with the Commission are the original and ten (10) copies of an Application for Abandonment of a Line of Railroad in reference to the above-described abandonment, which are submitted pursuant to 45 U.S.C. §748, together with the \$300.00 filing fee.

Exhibit G to the Application contains extensive appendices. All copies and service copies contain Exhibit G, but only the original Application contains all of the appendices. Copies of the appendices to Exhibit G will be made available to all parties on the service list upon request.

Please note that a 3.5-inch diskette containing a Microsoft Word formatted copy of the Application is enclosed.

Please time stamp the extra copy of this letter and return it in the enclosed self-addressed, stamped envelope.

Very truly yours,


Jonathan M. Broder
Assistant Vice President - Law
(215) 209-5020

Enclosures

cc: All Parties on Attached Service List

SERVICE LIST

Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

United States Department of Transportation
Federal Railroad Administration
400 Seventh Street, S.W.
Washington, D.C. 20590

Department of Defense
Military Traffic Management Command
Transportation Engineering Agency
Railroads for National Defense Program
720 Thimble Shoals Boulevard, Suite 130
Newport News, VA 23606-2574
Attn: Bob Kompanty

U.S. Department of the Interior
Chief, Land Resource Division
National Park Service
Room 540
800 N. Capitol Street, N.W.
Washington, D.C. 20002-4244

Railway Labor Executives Association
400 North Capitol Street
Suite 850
Washington, D.C. 20001

Railroad Retirement Board
844 North Rush Street
Chicago, IL 60611

Melvin F. Clemens, Jr., Director
Office of Compliance and Enforcement
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

The Honorable Christine Todd Whitman
Governor of the State of New Jersey
State House
Trenton, NJ 08625

Frank Wilson, Commissioner
New Jersey Department of Transportation
1035 Parkway Avenue
CN-600
Trenton, NJ 08625

John H. Pinto
Bureau of Utility and Railroad Engineering
1035 Parkway Avenue
CN 600
Trenton, NJ 08625

Rutgers Cooperative Extension of Hudson County
114 Clifton Place
Third Floor - Murdoch Hall
Jersey City, NJ 07304-3194

James Lloyd
Senior Vice President and General Counsel
National Railroad Passenger Corp. (Amtrak)
60 Massachusetts Avenue, N.E.
Washington, D.C. 20002

Andrew J. Jaskolka
State Review Process
101 South Broad Street
CN-800 - Room 813A
Trenton, NJ 08625-0800

Roger Grenier, Plant Manager
Cognis Corporation
(formerly Henkel Corp.)
1301 Jefferson Street
Hoboken, NJ 07030

Michael White
Dykes Lumber Company
1899 Park Avenue
Weehawken, NJ 07087

Daniel Censulo
New Jersey Transit Corporation
Office of New Rail Construction
One Penn Plaza East, 12th Floor
Newark, NJ 07105-2246

Suzanne Silverman, Esq.
Deputy Attorney General
NJ Department of Law and Public Safety
Division of Law
One Penn Plaza East, 6th Floor
Newark, NJ 07105-2246

James R. Paschall, Esq.
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510-9241

Natalie S. Rosenberg, Esq.
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423

DOCKET NO. AB-167 (SUB-NO. 1067N)

APPLICATION OF CONSOLIDATED RAIL CORPORATION PURSUANT TO 45
U.S.C. §748 FOR ABANDONMENT OF A LINE OF RAILROAD KNOWN AS THE
RIVER LINE, IN HUDSON COUNTY, NEW JERSEY

1. Consolidated Rail Corporation ("Conrail") hereby files this application pursuant to section 308(c) of the Regional Rail Reorganization Act of 1973 ("RRR Act"), codified as 45 U.S.C. §748(c), for a Certificate of Abandonment of the line of railroad described herein. Conrail is the "Corporation" named in said statute as to abandonment of lines where a Notice of Insufficient Revenue has been timely filed. 45 U.S.C. §702(5); 45 U.S.C. §741(k)(19). In STB Finance Docket No. 33388, CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company -- Control and Operating Leases/Agreements -- Conrail Inc. and Consolidated Rail Corporation, Decision No. 89 (served July 23, 1998), the Surface Transportation Board ("STB") approved the control of Conrail by CSX Corporation and Norfolk Southern Corporation, but in Ordering Paragraph 15 of that Decision it found and held that Conrail continues to be a railroad subject to the jurisdiction of the Surface Transportation Board, after approval and exercise of the control authorized therein.

2. A copy of the applicable statute, 45 U.S.C. §748, is attached hereto as Exhibit A.

3. A Notice of Insufficient Revenue ("NIR") as to the subject line of railroad was filed with the Interstate Commerce Commission on October 31, 1985, under the captioned docket, pursuant to 45 U.S.C. §748(c)(1).

4. The line of railroad subject to this application ("Subject Line"), totaling approximately 6.95 miles in length, situated in Hudson County, New Jersey, was described in the NIR as follows:

Segment 1

From its connection to the Passaic and Harismus Branch at CP "Waldo" in Jersey City (approximately Milepost 0.0±), to the south side of Clifton Road in Weehawken (approximately Milepost 4.7±), including the River Yard.

Segment 2

From the south side of Clifton Road in Weehawken (approximately Milepost 0.0±), to the northwest side of Tonnelle Avenue (but excluding that portion of the line, associated trackage and underlying right of way to retain access and continue service to Durkee Foods), in North Bergen (approximately Milepost 1.53±).

National Docks Secondary in Jersey City, from its connection with the River Line at CP "Nave" to the east side of Newark Avenue, a distance of approximately 1,350 feet±.

Weehawken Branch (Chicken Yard) in Weehawken, from its connection to the River Line on the east side of Willow Avenue to the end of the track, a distance of approximately 2,450 feet±.

Attached as Exhibit B is a map showing the location of the Subject Line.

5. The Subject Line is part of the "Shared Assets Areas" which continue to be operated by Conrail, pursuant to and subject to the Shared Assets Areas Operating Agreements, as approved and authorized in STB Finance Docket No. 33388, Decision No. 89.

6. This application is filed simultaneously with an application in Docket No. AB-167 (Sub-No. 766N), seeking abandonment of a line of railroad known as the Weehawken Branch. Due to changes in track alignments and operations since the NIR notices were filed in this docket and Docket No. AB-167 (Sub-No. 766N), the River Line and the Weehawken Branch are now operated as a single line. Therefore, these two applications should be considered together. Only two customers are located on the lines as presently configured and operated.

7. Pursuant to the terms of a Freight Relocation and River Line Acquisition Agreement ("Acquisition Agreement") between Conrail and New Jersey Transit Corporation ("NJT"), made as of June 8, 1989, Conrail agreed to sell to NJT most of the real estate and rail of the Subject Line, but retained in the contract a free and exclusive easement for the operation and maintenance of rail freight service on the Subject Line. A copy of the Acquisition Agreement is attached hereto as Exhibit G. Conveyance of the portion of the Subject Line sold to NJT, with retention of the easement for freight operations, was completed on or about October 24, 1995.¹

8. The Acquisition Agreement provides for the sale of the River Line to NJT and rehabilitation of the line for use as a light rail passenger service line, the construction of certain modifications to Conrail's Northern Branch including the removal of various "at-grade" street or highway crossings to facilitate freight operations in the North Jersey

¹ In F.D. No. 31847, State of Maine, Dept. of Transportation -- Acq. and Op. Exemption -- Maine Central RR Co., (served May 24, 1991) the Interstate Commerce Commission held that it did not have jurisdiction over the sale of the underlying assets of a line of railroad to a commuter agency, where the selling railroad retained both the obligation and the means to provide common carrier rail freight service. The Commission stated that any similar transaction should be submitted to it so that a determination could be made on its jurisdiction in each instance. The Acquisition Agreement for sale of the Subject Line to NJT predated the decision in State of Maine, and the agreement was not submitted for Commission approval. However, Conrail did not give up its common carrier obligations, and it retained an easement over the line and insured an exclusive "window" of operations to provide freight service over the line. Therefore, the conditions found necessary in State of Maine to insure that the carrier retained the ability to meet common carrier obligations were preserved.

area, and the relocation of through freight service now utilizing the River Line to the Northern Branch. The agreement contemplates that simultaneous local freight and passenger operations may be conducted on the line, but certain additional facilities required for the safe operation of both freight and light rail passenger service on the same line must be constructed at the expense of Conrail. At the time the Acquisition Agreement was executed with NJT, the Subject Line was subject to the NIR filed herein on October 31, 1985.

9. Attached hereto as Exhibit C is a summary, based on the most recent data available to Conrail, setting forth financial data for the Subject Line. Exhibit C contains consolidated information for the River Line subject to this application and for the Weehawken Branch subject to Docket No. AB-167 (Sub-No. 766N). Exhibit C shows total revenues attributable, avoidable costs, and total avoidable loss from operation of the two lines.

10. Exhibit C contains financial data for the Base Year (September, 1999 to August, 2000), the Forecast Year (September, 2000 to August, 2001), and the Projected Subsidy Year (September, 2000 to August, 2001). The Exhibit shows an Avoidable Loss from Operations for the Base Year of \$4,703, an Estimated Forecast Year Avoidable Loss of \$7,752, and an estimated subsidy of \$1,834,630, required to keep the two Subject Lines in operation.

11. Because CSX Transportation ("CSXT") or Norfolk Southern Railway Company ("NS") are now the waybill origin or destination railroads on all traffic handled by Conrail, and Conrail now receives as its revenue a recovery of its costs from CSXT and NS, as determined by the Shared Assets Operating Agreements approved by the STB in Docket No. 33388, Decision No. 89, "Revenues Attributable" on Exhibit C are shown as "All Other Revenue & Income," and consist of the Conrail average cost

recovery by carload, for the number of carloads handled on the line. "Off-Branch Costs" cover only the costs of the transfer move made by Conrail between the branch and Bayonne Yard, where the cars are delivered to CSXT or NS. Determination of On-Branch and Off-Branch costs is shown on Worksheets A and B, attached to Exhibit C. Cost indexes utilized in the preparation of elements of Conrail's costs, and the calculation of Nominal Rate of Return, are shown in Exhibits D and E, respectively. The two shippers, and their 1999 Annual and Base Year traffic, are shown on Worksheet A. No traffic, costs or revenue are shown for overhead traffic, which can be rerouted to the Northern Branch.

12. NJT will rehabilitate the line to handle light rail commuter passenger service, and will maintain the track to a standard greater than the level of maintenance required for the handling of freight traffic on the line. The provisions of the Acquisition Agreement for the possible simultaneous freight and passenger operation on the line provide that if freight service is to be continued on the line, certain additional facilities required for the safe operation of freight and light rail passenger service on the same line must be constructed at the expense of Conrail. Exhibit F shows these additional costs. These costs are shown on Exhibit C as a rehabilitation cost, because those costs must be incurred if freight service is to be continued on the lines. The costs of these safety features are less than the rehabilitation and maintenance costs of the line which are to be provided by NJT. Because Conrail does not own the Subject Line, Exhibit C shows a net liquidation value of \$0.

13. Pursuant to 45 U.S.C. §748(d), the aforesaid revenue, cost, and subsidy information will be furnished, on request, to any person who intends to make an offer of financial assistance pursuant to 45 U.S.C. §748(d). Requests should be made in writing, as provided in Paragraph 18 hereof.

14. Pursuant to the Shared Assets Operating Agreement for North Jersey, CSXT and NS have operating rights over all of the tracks in the North Jersey Shared Assets Area, including the Subject Tracks. CSXT and NS are each filing, simultaneously herewith, a Petition for Exemption to discontinue their operating rights over the Subject Tracks.

15. The abandonment of freight service on the River Line will facilitate the improvement of passenger and freight service in the northern New Jersey area, as it will allow the River Line to be reconstructed and dedicated to light rail passenger service and avoid the unnecessary expenditure of funds and operating restrictions necessary to accommodate joint light rail passenger and freight service on the line, and it will facilitate the reconstruction of the Northern Branch, the removal of "at-grade" highway and street crossings on that line, and the transfer of through freight service from the River Line to the Northern Branch.

16. While Conrail must abandon its freight service on the Subject Lines and discontinue service to local customers to allow reconstruction of the lines for light rail passenger service to avoid the construction of additional facilities, Conrail does not intend to terminate its use of the line for overhead service until the Northern Branch has been reconstructed to remove "at-grade" crossings and allow its unencumbered use for through freight service.

17. Within 15 days after the filing of this application, persons desiring a more detailed statement setting forth the basis upon which the subsidy estimate was calculated may request such information in writing as provided in paragraph 18 hereof. Such detailed statement will be furnished within 15 days after receipt of the request.

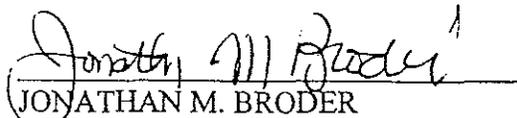
18. All requests for information or offers of financial assistance must be made in writing to Jonathan M. Broder, Assistant Vice President - Law, Consolidated Rail

Corporation, 2001 Market Street, Philadelphia, Pennsylvania 19103. A copy of any such request or offer must be sent to the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423-0001, and must refer to STB Docket No. AB-167 (Sub-No. 1067N).

19. Any person requesting information or assistance with respect to the abandonment provisions under which this application is filed or the requirements and procedures governing offers of financial assistance (including proof of financial responsibility) may contact the STB Office of Proceedings, 1925 K Street, NW, Washington, DC 20423-0001, Telephone 202-565-1600.

20. Correspondence to the Applicant relating to this application should be addressed to Jonathan M. Broder, Assistant Vice President - Law, Consolidated Rail Corporation, 2001 Market Street, Philadelphia, Pennsylvania 19103, Telephone 215-209-5020.

WHEREFORE, Conrail requests that the Board grant a Certificate of Abandonment of the Subject Line identified in Paragraph 4 hereof, within the time limits and in accordance with the provisions of the governing statute, 45 U.S.C. §748.



JONATHAN M. BRODER
Vice-President - Law
Consolidated Rail Corporation
2001 Market Street - 16A
Philadelphia, PA 19103
(215) 209-5020

Attorney for
Consolidated Rail Corporation

DATE: November 13, 2000

VERIFICATION

COMMONWEALTH OF PENNSYLVANIA :

: SS

COUNTY OF PHILADELPHIA :

Robert W. Ryan, being duly sworn, makes oath and says that he is Assistant Vice President, Real Estate of Consolidated Rail Corporation; that he has been authorized by proper corporate action of Consolidated Rail Corporation to verify and file with the Surface Transportation Board the foregoing Application; that he has general knowledge of the facts and matters relied upon in such Application; and that all representations set forth therein are true and correct to the best of his knowledge, information and belief.

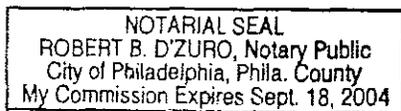

ROBERT W. RYAN

Sworn To And Subscribed

Before Me This 13th Day

Of November, 2000.

Robert B. D'Zuro
Notary Public



CERTIFICATE OF SERVICE AND
COMPLIANCE WITH EX PARTE 419 (365 I.C.C. 472)

I, Jonathan M. Broder, hereby certify that the foregoing Application has been served, by United States mail, first class, postage prepaid upon all persons set forth on the foregoing Service List, on November 13, 2000, in accordance with Ex Parte 419 (Conrail Abandonments Under NERSA, 365 I.C.C. 472).


JONATHAN M. BRODER

DATE: November 13, 2000

EXHIBIT B LOCATION AND MAP RIVER LINE

State(s):	NJ	Counties:	Hudson	Approx. Length:	
				6.95	Miles +

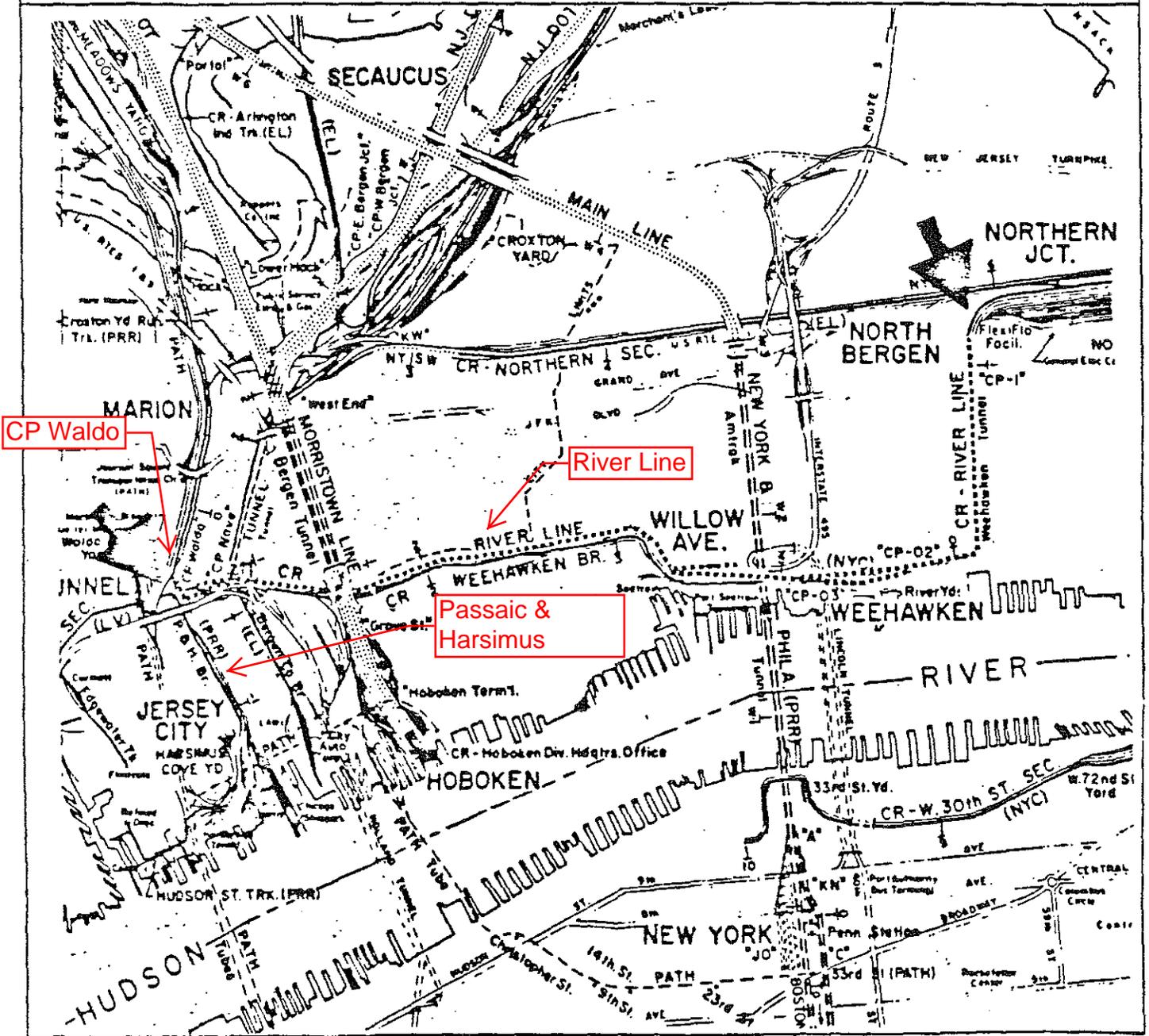


EXHIBIT D

Exhibit D

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Conrail Letter to Vernon A. Williams, Secretary of Surface Transportation Board,
May 1, 2002, confirming Conrail abandonment of River Line and Weehawken Branch,
Hudson County, New Jersey



May 1, 2002

UPS NEXT DAY AIR

Vernon A. Williams
Secretary, Surface Transportation Board
Mercury Building, Room 700
1925 K Street, N.W.
Washington, DC 20423

Re: STB No. AB-167 (Sub-No. 766N)
Consolidated Rail Corporation --
Abandonment of the Weehawken Branch - In Hudson County, New Jersey

Re: STB No. AB-167 (Sub-No. 1067N)
Consolidated Rail Corporation --
Abandonment of the River Line -- In Hudson County, New Jersey

Dear Mr. Williams:

Pursuant to the provisions of 49 CFR 1152.29(e)(2) and in accordance with Ordering Paragraph No. 2 of the Board's decision served January 17, 2002 in the above-referenced proceedings, Consolidated Rail Corporation (Conrail) hereby files with the Surface Transportation Board this Notice of Consummation regarding the two abandonments authorized in the Board's January 17, 2002 decision. Please be advised that Conrail has fully exercised the abandonment authority granted by the Board as of today, May 1, 2002. For convenience, the two lines are referenced jointly as the River Line, and are as described below:

STB No. AB-167 (Sub-No. 766N): The line of railroad subject to this application, totaling approximately 3.84 miles in length, situated in Hudson County, New Jersey, was described in the NIR as follows: The Weehawken Branch, from its point of switch in Jersey City (approximately Milepost 0.0), to southerly R.O.W line of Baldwin Avenue, in Weehawken (approximately Milepost 2.84), including the former DL&W Railroad Lead to Hoboken Freight Yard in Jersey City.

STB No. AB-167 (Sub-No. 1067N): The line of railroad subject to this application, totaling approximately 6.95 miles in length, situated in Hudson County, New Jersey, was described in the NIR as follows:

Segment 1

From its connection to the Passaic and Harismus Branch at CP "Waldo" in Jersey City (approximately Milepost 0.0±), to the south side of Clifton Road in Weehawken (approximately Milepost 4.7±), including the River Yard.

Segment 2

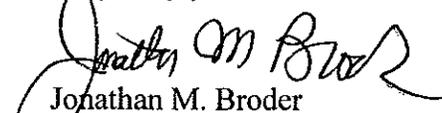
From the south side of Clifton Road in Weehawken (approximately Milepost 0.0±), to the northwest side of Tonnelle Avenue (but excluding that portion of the line, associated trackage and underlying right of way to retain access and continue service to Durkee Foods), in North Bergen (approximately Milepost 1.53±).

National Docks Secondary in Jersey City, from its connection with the River Line at CP "Nave" to the east side of Newark Avenue, a distance of approximately 1,350 feet±.

Weehawken Branch (Chicken Yard) in Weehawken, from its connection to the River Line on the east side of Willow Avenue to the end of the track, a distance of approximately 2,450 feet±.

Please time stamp the extra copy of this letter and return it in the enclosed self-addressed, stamped envelope.

Very truly yours,


Jonathan M. Broder
Assistant Vice President - Law
(215) 209-5020

SERVICE LIST

Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

Thomas W. Wilcox, Esq.
Thompson Hine LLP
1920 N Street, NW
Suite 800
Washington, DC 20036-1600

Kevin Sheys, Esq.
Kirkpatrick & Lockhart LLP
1800 Massachusetts Avenue, NW
Second Floor
Washington, DC 20036-1800

Roger Grenier, Plant Manager
Cognis Corporation
(formerly Henkel Corp.)
1301 Jefferson Street
Hoboken, NJ 07030

Michael White
Dykes Lumber Company
1899 Park Avenue
Weehawken, NJ 07087

Daniel Censulo
New Jersey Transit Corporation
Office of New Rail Construction
One Penn Plaza East, 12th Floor
Newark, NJ 07105-2246

Suzanne Silverman, Esq.
Deputy Attorney General
NJ Department of Law and Public Safety
Division of Law
One Penn Plaza East, 6th Floor
Newark, NJ 07105-2246

James R. Paschall, Esq.
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510-9241

Natalie S. Rosenberg, Esq.
CSX Transportation, Inc.
500 Water Street
Jacksonville, FL 32202

John H. Pinto
Bureau of Utility & Railroad Engineering
1035 Parkway Avenue
CN 600
Trenton, NJ 08625

Frank Wilson, Commissioner
New Jersey Department of Transportation
1035 Parkway Avenue
CN-600
Trenton, NJ 08625

CERTIFICATE OF SERVICE

I, Jonathan M. Broder, hereby certify that the foregoing Notice of Consummation has been served, by United States mail, first class, postage prepaid upon all persons set forth on the foregoing Service List, on May 1, 2002.


JONATHAN M. BRODER

DATE: May 1, 2002

EXHIBIT E

Exhibit E

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Petitioners' deeds from Conrail dated July 12, 2005 (eight total)

Exhibit Index

- Exhibit A Quit Claim Deed (NJ) dated July 12, 2005 by Consolidated Rail Corporation to 212 Marin Boulevard, L.L.C., recorded on July 18, 2005, in Deed Book 7616 at Page 1, for consideration in the amount of \$333,335, conveying property known as Block 212 Lot M on the current tax map of the City of Jersey City
- Exhibit B Quit Claim Deed (NJ) dated July 12, 2005 by Consolidated Rail Corporation to 247 Manila Avenue, L.L.C., recorded on July 18, 2005, in Deed Book 7615 at Page 334, for consideration in the amount of \$333,333, conveying property known as Block 247 Lot 50A on the current tax map of the City of Jersey City
- Exhibit C Quit Claim Deed (NJ) dated July 12, 2005 by Consolidated Rail Corporation to 280 Erie Street, L.L.C., recorded on July 18, 2005, in Deed Book 7615 at Page 325, for consideration in the amount of \$333,333, conveying property known as Block 280 Lot 50A & B-1 on the current tax map of the City of Jersey City
- Exhibit D Quit Claim Deed (NJ) dated July 12, 2005 by Consolidated Rail Corporation to 317 Jersey Avenue, L.L.C., recorded on July 18, 2005, in Deed Book 7615 at Page 316, for consideration in the amount of \$333,333, conveying property known as Block 317.5 Lot 50-A on the current tax map of the City of Jersey City
- Exhibit E Quit Claim Deed (NJ) dated July 12, 2005 by Consolidated Rail Corporation to 354 Cole Street, L.L.C., recorded on July 18, 2005, in Deed Book 7615 at Page 307, for consideration in the amount of \$333,333, conveying property known as Block 354.1 Lot 50-A on the current tax map of the City of Jersey City
- Exhibit F Quit Claim Deed (NJ) dated July 12, 2005 by Consolidated Rail Corporation to 389 Monmouth Street, L.L.C., recorded on July 18, 2005, in Deed Book 7615 at Page 298, for consideration in the amount of \$333,333, conveying property known as Block 389.1 Lot 50 on the current tax map of the City of Jersey City
- Exhibit G Quit Claim Deed (NJ) dated July 12, 2005 by Consolidated Rail Corporation to 415 Brunswick Street, L.L.C., recorded on July 18, 2005, in Deed Book 7615 at Page 289, for consideration in the amount of \$500,000, conveying property known as Block 415 Lot 50 on the current tax map of the City of Jersey City
- Exhibit H Quit Claim Deed (NJ) dated July 12, 2005 by Consolidated Rail Corporation to 446 Newark Avenue, L.L.C., recorded on July 18, 2005, in Deed Book 7615 at Page 280, for consideration in the amount of \$500,000, conveying property known as Block 446 Lot 18A on the current tax map of the City of Jersey City

Exhibit A

Consideration : \$333335.00 Exempt Code: 5

County	State	N.P.N.R.F	Total
333.83	833.42	275.25	1976.30
General	Public	Extra	1% Tax
0.00	166.75	367.05	0.00

CONRAD QUITCLAIM DEED (NJ)

Case # 72931-A

07/18/2005 09:53A
BARBARA A. DONNELLY
HURSON COUNTY
REGISTER OF DEEDS
RECEIVED
1600011008

THIS DEED, made the 12th day of July, in the year of our Lord Two Thousand Five

BETWEEN CONSOLIDATED RAIL CORPORATION, a Corporation of the Commonwealth of Pennsylvania, having an office at Two Commerce Square, 2001 Market Street, 8TH Floor, Philadelphia, Pennsylvania, 19103, hereinafter referred to as the Grantor, and **212 MARIN BOULEVARD, L.L.C.**, a Limited Liability Company, having a mailing address in care of Carmine R. Alampi, Esq., One University Plaza, Suite 404, Hackensack, NJ 07601, hereinafter referred to as the Grantee.

THIS DEED SENT TO REGISTER'S OFFICE
A COPY OF THIS DEED

WITNESSETH, that the said Grantor, for and in consideration of the sum of THREE HUNDRED THIRTY THREE THOUSAND THREE HUNDRED THIRTY FIVE DOLLARS (\$333,335) in money of the United States of America, unto it well and truly paid by the said Grantee, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, Grantor does by these presents, remise, release and forever quitclaim unto the said Grantee, the heirs or successors and assigns of the said Grantee, all right, title and interest of the said Grantor of, in and to the Premises as more particularly described on Exhibit 'A', pages 1 of 3 through 3 of 3, appended hereto and made a part hereof.

EXCEPTING AND RESERVING, thereout and therefrom and unto the said Grantor, permanent, perpetual, exclusive, assignable and unrestricted easements and rights for any and all existing sewer, gas and water lines, poles, pipes, wires, cables, power, signal and communication lines, fiber optic lines, telecommunication lines and all their appurtenances, hereinafter referred to as "facilities", located in, on, under, over, above, beneath the surface, across or through the Premises; and together with the right to use, maintain, repair, replace, renew, rehabilitate and remove said facilities and their appurtenances.

UNDER and SUBJECT, however, to (1) whatever rights the public may have to the use of any roads, alleys, bridges or streets crossing the Premises, (2) any streams, rivers, creeks and water ways passing under, across or through the Premises, and (3) any easements or agreements of record or otherwise affecting the Premises, and to the state of facts which a personal inspection or accurate survey would disclose, and to any pipes, wires, poles, cables, culverts, drainage courses or systems and their appurtenances now existing and remaining in, on, under, over, across and through the Premises, together with the right to maintain, repair, renew, replace, use and remove same.

THIS INSTRUMENT is executed and delivered by Grantor, and is accepted by Grantee, subject to the covenants set forth below, which shall be deemed part of the consideration of this conveyance and which shall run with the land and be binding upon, and inure to the benefit of, the respective heirs, legal representatives, successors and assigns of Grantor and Grantee. Grantee hereby knowingly, willingly, and voluntarily waives the benefit of any rule, law, custom, or statute of the State of New Jersey now or hereafter in force with respect to the covenants set forth below:

TAX REFERENCE:
Block 212 Lot M

Robert W. Ryan
THIS INSTRUMENT PREPARED BY:
Robert W. Ryan
Consolidated Rail Corporation
2001 Market Street - 8th Floor
Philadelphia, PA 19103

DR

BK:07614 PG:00001

(1.) Grantor shall neither be liable or obligated to construct or maintain any fence or similar structure between the Premises and adjoining land of Grantor nor shall Grantor be liable or obligated to pay for any part of the cost or expense of constructing or maintaining any fence or similar structure, and Grantee hereby forever releases Grantor from any loss or damage, direct or consequential, that may be caused by or arise from the lack or failure to maintain any such fence or similar structure.

(2.) Grantee hereby forever releases Grantor from all liability for any loss or damage, direct or consequential, to the Premises and to any buildings or improvements now or hereafter erected thereon and to the contents thereof, which may be caused by or arise from the normal operation, maintenance, repair, or renewal of Grantor's railroad, or which may be caused by or arise from vibration resulting from the normal operation, maintenance, repair or renewal thereof.

(3.) A. Allocation of Specific Obligations to Remediate.

The parties shall, as between themselves, allocate obligations pertaining to any Remediation with respect to the Premises in accordance with this Section, without regard to considerations of fault, failure or negligence.

(i) Grantee shall be responsible after the date of this Deed for any Remediation arising from the existence or presence of any contamination in, on or about the Premises, including without limitation, any Hazardous Substances, except as specifically provided otherwise in Subsection A(ii) below.

(ii) Grantor shall be responsible for Remediation of Hazardous Substances in, on or about the Premises, provided that such Hazardous Substances: (1) resulted from a condition created by Grantor during the time the Premises was owned by Grantor; and (2) are a violation of applicable environmental laws or regulations in effect and as interpreted on the date of this Deed. Notwithstanding the aforesaid, Grantor shall not be liable for any Remediation resulting from any condition: (a) that Grantee had knowledge of or reasonable basis to suspect as of the date of this Deed; or (b) that Grantee could have discovered its presence upon the Premises by a duly diligent examination of the Premises or public records related thereto; or (c) which Grantee has failed to immediately notify Grantor of as provided for below. Grantor's liability for any Remediation for which it is otherwise responsible hereunder shall be no greater than that resulting from the condition of the Premises existing as of the date of this Deed regardless of any increase in Remediation costs or liability created by or resulting from events occurring after the date of this Deed, including the passage of time.

(iii) If at any time after the date of this Deed, any Hazardous Substances are discovered which are or may be the responsibility of Grantor to Remediate pursuant to Subsection A(ii) above, then Grantee shall immediately notify Grantor of such Hazardous Substances, and Grantor shall have the opportunity and right to investigate, determine its responsibility therefor, determine in connection with appropriate governmental or regulatory bodies the appropriate response or remedy for such Hazardous Substances and Remediate, with its own forces or contractors and at its own expense, such Hazardous Substances to the satisfaction of appropriate regulatory bodies or to the additional extent deemed appropriate by Grantor. Grantor shall only be obligated to Remediate such Hazardous Substances to the extent that would be required for the now existing or most recent use of the Premises by Grantor, regardless of the current or proposed use of the Premises by Grantee. Grantee shall grant such rights of entry or other rights to Grantor, upon reasonable terms and without compensation, as may be necessary to allow Grantor to perform the inspections, remediation or other actions necessary to comply with this Subsection. In the event of a dispute concerning Grantor's responsibility for any Remediation hereunder, the parties shall cooperate to resolve such dispute as quickly as possible, and Grantee, unless required by valid judicial or regulatory order to take immediate action to Remediate a specific condition, shall, during the resolution of such dispute, take no actions inconsistent with Grantor's right to seek a determination from the appropriate regulatory or judicial body of the remedy required by law and to Remediate the Hazardous Substances with its own forces or contractors. Grantor shall not be liable to Grantee for any damages, costs or expenses incurred as a result of such Remediation, except that if Grantee is required by valid judicial or administrative order as provided above to take immediate action to Remediate any Hazardous Substances which are later determined

BK:07616 PG:00002

to be the responsibility of Grantor pursuant to this Subsection, Grantee shall be able to recover its actual and reasonable costs from Grantor.

B. Definition of "Hazardous Substance(s)". "Hazardous Substance(s)", as used in this Deed, shall mean any material or substance that is defined or classified as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601(14)) or Section 311 of the Federal Water Pollution Control Act (33 U.S.C. §1321); a "hazardous waste" pursuant to Section 1004 or 3001 of the Resource Conservation and Recovery Act (42 U.S.C. §§6903, 6921); a toxic pollutant under Section 307(a)(1) of the Federal Water Pollution Control Act (33 U.S.C. §1317(a)(1)); a "hazardous air pollutant" under Section 112 of the Clean Air Act (42 U.S.C. §7412); or a "hazardous material" under the Hazardous Materials Transportation Uniform Safety Act of 1990 (49 U.S.C. App. §1802(4)).

C. Definition of "Remediate" and "Remediation". "Remediate" or "Remediation", as used in this Deed, shall mean, any reasonable investigation and the formulation and implementation of any remedial action, containment, cleanup, response, treatment, removal, mitigation, abatement, elimination or control of any contamination.

D. Indemnity. The party made responsible by this Section for any Remediation shall: (1) satisfy said obligations; and (2) indemnify, defend and hold the other party (and its directors, officers, employees and agents) harmless from and against any claims, liabilities, judgments, settlements, costs and expenses (including without limitation, reasonable attorneys' fees) arising out of or in connection with said Remediation.

E. Release. As a material part of the consideration to Grantor for the conveyance of the Premises, Grantee hereby expressly and irrevocably releases and forever discharges, and by these presents does, for its successors and assigns, release and forever discharge Grantor (including, without limitation, its directors, officers, employees, and agents) from any and all actions, suits, controversies, damages (compensatory, punitive or consequential), judgments, claims and demands whatsoever, in law, or in equity, which Grantee ever had, now has, or which it or its successors and assigns hereafter can, shall or may have against Grantor, arising out of or in connection with the presence of any contamination on the Premises, including without limitation, any Hazardous Substances, except to the extent Grantor fails to comply with its obligations set forth in Subsection A(ii) above, or Grantee is entitled to recover the cost of any Remediation pursuant to Subsection A(ii). Grantee shall indemnify, defend and hold Grantor harmless from and against any and all claims, liabilities, judgments, settlements, costs and expenses (including without limitation, reasonable attorneys' fees) arising out of or in connection with Grantee's prosecution of any of its legal remedies against any third party who might have concurring or joint liability for matters for which Grantee has released Grantor pursuant to this Subsection. Each party expressly waives, to the extent it lawfully may do so: (i) the benefits of any statute that would relieve it of any obligations that it has assumed under this Section, and (ii) any defense predicated on alleged misrepresentations of fact or the nondisclosure of any fact.

(4.) Should a claim adverse to the title hereby quitclaimed be asserted and/or proved, no recourse shall be had against the Grantor herein.

EXCEPTING AND RESERVING, thereout and therefrom and unto the said Grantor, permanent, perpetual, exclusive, unrestricted and assignable easements and rights for any and all existing signboards and their appurtenances located on the Premises; together with the necessary; easements and rights for any necessary electric service lines and their appurtenances needed for illuminating said signboards; and together with rights and easements to construct, use, maintain, modify, enlarge, repair, renew, replace, rehabilitate and remove said signboards; and together with the right of immediate and unimpeded ingress and egress on, over, across, and through the Premises for the purposes aforesaid; and further together with the ~~exclusive right to sell and assign such rights~~ and to retain any and all revenues, income, charges, considerations and fees derived therefrom.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of it, the said Grantor as well at law as in equity or otherwise howsoever of, in and to the same and every part thereof, UNDER and SUBJECT and EXCEPTING AND RESERVING as aforesaid.

TO HAVE AND TO HOLD, all and singular the said Premises, together with the appurtenances, unto the Grantee, the heirs or successors and assigns of the Grantee, forever, UNDER and SUBJECT and provided as aforesaid.

THE words "Grantor" and "Grantee" used herein shall be construed as if they read "Grantors" and "Grantees", respectively, whenever the sense of this instrument so requires and whether singular or plural, such words shall be deemed to include at all times and in all cases the heirs, legal representatives or successors and assigns of the Grantor and Grantee.

IN WITNESS WHEREOF, the Grantor has caused this Indenture to be signed in its name and behalf

BK:07616 PG:00004

EXHIBIT A

CASE NO. 72931-A

ALL THAT CERTAIN piece or parcel of land of the Grantor, together with all of the improvements thereon, being a portion of the line of railroad known as the Penn Central Harsimus Branch and identified as Line Code 1420, situate in the City of Jersey City, County of Hudson and State of New Jersey, said parcel being identified as Block 212, Lot M, which is bounded and described in accordance with a Plat of Survey, identified as Project No. 0303332, dated December 29, 2004 and revised through February 23, 2005, prepared by Glen J. Lloyd, Professional Land Surveyor, New Jersey License No. GS37598, attached hereto and made a part hereof, as follows.

A COPY OF THIS DEED
HAS BEEN SENT TO ASSESSOR'S OFFICE

BEING a part or portion of the same premises which Fairfax Leary, as Trustee of the Property of the United New Jersey Railroad and Canal Company, Debtor, by Conveyance Document No. UNJ-CRC-RP-4, dated March 31, 1976 and recorded on October 10, 1979 in the Recorder's Office of Hudson County, New Jersey, in Liber 3286 at page 757&c.; and also Filed and Recorded in the Recorder's Office of the Secretary of State for the State of New Jersey on October 12, 1978, granted and conveyed unto Consolidated Rail Corporation.



SCHOOR DEPALMA
Engineers and Consultants

February 23, 2005

Project No. 030333202

LEGAL DESCRIPTION
LOT M, BLOCK 212
CITY OF JERSEY CITY
HUDSON COUNTY, NEW JERSEY

A COPY OF THIS DEED
HAS BEEN SENT TO ASSESSOR'S OFFICE

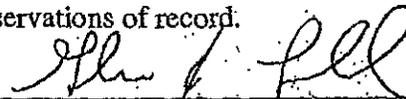
A parcel of land described herein, known and designated as Lot M, Block 212, City of Jersey City, Hudson County, New Jersey, as shown on a certain map entitled, "Boundary Survey, Lot M - Block 212, Lot 50A - Block 247, Lot 50A - Block 280, Lot 50A - Block 317.5, Lot 50A - Block 354.1, Lot 50 - Block 389.1, Lot 50 - Block 415 & Lot 18A - Block 446," prepared by Schoor DePalma, dated December 29, 2004 and revised to February 23, 2005, and being more particularly described as follows:

Beginning at the point of intersection of the westerly sideline of Marin Boulevard (60 foot wide right-of-way) and the southerly sideline of Sixth Street (60 foot wide right-of-way) and running; thence,

1. Along said westerly sideline of Marin Boulevard, south 06 degrees 22 minutes 03 seconds west, 135.12 feet; thence,
2. Along the northerly line of lands known and designated as Tax Map Lot 1, Block 212, north 77 degrees 29 minutes 57 seconds west, 322.57 feet; thence,
3. Still along said northerly line of Lot 1, north 83 degrees 44 minutes 57 seconds west, 81.33 feet to the easterly sideline of Manila Avenue (60 foot wide right-of-way); thence,
4. Along said easterly sideline of Manila Avenue, north 06 degrees 22 minutes 03 seconds east, 100.00 feet to its intersection with the aforementioned southerly sideline of Sixth Street; thence,
5. Along said southerly sideline of Sixth Street, south 83 degrees 44 minutes 57 seconds east, 402.05 feet to the point or place of beginning.

Containing 45,837 square feet more or less / 1.052 acres of land more or less as described herein.

Subject to all existing easements, rights-of-way and reservations of record.


Glen J. Lloyd, P.L.S.
N.J. Professional Land Surveyor
New Jersey License No. GS37598

n:\project\2003\0303332\02\m&bs\lot m, block 212.doc

Your bottom line results partner.

20 Watervlew Boulevard, PO Box 5245, Parsippany, NJ 07054-6245 Tel: 973-299-7970 Fax: 973-324-8588
Manalapan ■ Brick ■ Clinton ■ Egg Harbor ■ Exton ■ Falls ■ Kulpsville ■ Parsippany
Philadelphia ■ Stafford ■ Voorhees ■ White Plains

www.schoordepalma.com
000049

State of New Jersey

Seller's Residency Certification/Exemption

(C.55, P.L. 2004)

(Please Print or Type)

SELLER(S) INFORMATION (See Instructions, page 2):

Name(s) Consolidated Rail Corporation

Current Resident Address 405 Division Street, Suite 215

City, Town, Post Office Elizabeth State NJ Zip Code 07201

PROPERTY INFORMATION (Brief Property Description):

Block(s) 212 Lot(s) 50 A (Lot M) Qualifier _____

Street Address Marin Boulevard and Sixth Street

City, Town, Post Office Jersey City State NJ Zip Code 07302

Seller's Percentage of Ownership 100% Consideration \$333,335.00 Closing Date 7/13/05

SELLER ASSURANCES (Check the Appropriate Box):

1. I am a resident taxpayer of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
2. The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the Federal Internal Revenue Code of 1986, 26 U.S.C. s. 121.
3. I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. Seller is not individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A.54A:1-1 et seq.
6. The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:5-1-1 et seq.
7. The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1031, 1033 or is a cemetery plot. (CIRCLE THE APPLICABLE SECTION.) If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale.

SELLER(S) DECLARATION:

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete.

July 13, 2005

Date

Signature Robert W. Ryan, Director Real Estate
(Seller) Please indicate if Power of Attorney or Attorney in Fact

July 13, 2005

Date

Signature Consolidated Rail Corporation
(Seller) Please indicate if Power of Attorney or Attorney in Fact

407

by its Director-Real Estate duly authorized thereunto and has caused its corporate seal to be hereunto affixed and attested by its Corporate Secretary, the day and year first above written.

SEALED and
DELIVERED in the
presence of us:

CONSOLIDATED RAIL CORPORATION
By:

Carol A. Potiri
CAROL A. POTIRI

Robert W. Ryan
Robert W. Ryan
Director-Real Estate

ATTEST:

Carol A. Potiri
CAROL A. POTIRI

Jonathan M. Broder
Jonathan M. Broder
Corporate Secretary

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF Philadelphia) : SS

BE IT REMEMBERED, that on this 12th day of July in the year Two Thousand Five (2005), before me, the subscriber, a Notary Public for the Commonwealth and County aforesaid, personally appeared Robert W. Ryan, Director-Real Estate of CONSOLIDATED RAIL CORPORATION, the corporate Grantor named in the within Instrument, who I am satisfied is the person who has signed the within Instrument on behalf of said Corporation; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed and delivered the same as such officer aforesaid; that the foregoing Instrument is the voluntary act and deed of said Corporation, made by virtue of authority from its Board of Directors; and that the full and actual consideration paid or to be paid for the transfer of title to realty evidenced by the within Instrument as such consideration is THREE HUNDRED THIRTY THREE THOUSAND THREE HUNDRED THIRTY FIVE Dollars (\$333,335).

Jennifer A. Burtulato
Notary Public

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
JENNIFER A. BURTULATO, Notary Public
City of Philadelphia, Phila. County
My Commission Expires October 11, 2008

RECORD & RETURN TO:
ALAMPI & DEMARCAUS
ONE UNIVERSITY PLAZA
HUCKENBACH NJ 07601

BK:07616 PG:00009

Exhibit B

CONSTRUCTION = \$333333.00 EXEMPT CODE# 5

County	State	N.P.H.R.F	Total
333.83	833.42	275.25	1976.30
General	Public	Extra	1% Tax
0.00	166.75	367.05	0.00

fee3 Date: 07/18/2005

QUITCLAIM DEED (NJ)

Case 72931-B

07/18/2005 09:52A
BARBARA A. DONNELLY
HUDSON COUNTY
REGISTER OF DEEDS
Receipt # 2666

THIS DEED, made the 12th day of July, in the year of our Lord Two Thousand Five (2005),

BETWEEN CONSOLIDATED RAIL CORPORATION, a Corporation of the Commonwealth of Pennsylvania, having an office at Two Commerce Square, 2001 Market Street, 8TH Floor, Philadelphia, Pennsylvania, 19103, hereinafter referred to as the Grantor, and 247 MANILA AVENUE, L.L.C., a Limited Liability Company, having a mailing address in care of Carmine R. Alampi, Esq., One University Plaza, Suite 404, Hackensack, NJ 07601, hereinafter referred to as the Grantee.

000011007
RECEIVED
AND
RECORDED

WITNESSETH, that the said Grantor, for and in consideration of the sum of THREE HUNDRED THIRTY THREE THOUSAND THREE HUNDRED THIRTY THREE DOLLARS (\$333,333) lawful money of the United States of America, unto it well and truly paid by the said Grantee, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, Grantor does by these presents, remise, release and forever quitclaim unto the said Grantee, the heirs or successors and assigns of the said Grantee, all right, title and interest of the said Grantor of, in and to the Premises as more particularly described on Exhibit 'A', pages 1 of 3 through 3 of 3, appended hereto and made a part hereof.

EXCEPTING AND RESERVING, thereout and therefrom and unto the said Grantor, permanent, perpetual, exclusive, assignable and unrestricted easements and rights for any and all existing sewer, gas and water lines, poles, pipes, wires, cables, power, signal and communication lines, fiber optic lines, telecommunication lines and all their appurtenances, hereinafter referred to as "facilities", located in, on, under, over, above, beneath the surface, across or through the Premises; and together with the right to use, maintain, repair, replace, renew, rehabilitate and remove said facilities and their appurtenances.

UNDER and SUBJECT, however, to (1) whatever rights the public may have to the use of any roads, alleys, bridges or streets crossing the Premises, (2) any streams, rivers, creeks and water ways passing under, across or through the Premises, and (3) any easements or agreements of record or otherwise affecting the Premises, and to the state of facts which a personal inspection or accurate survey would disclose, and to any pipes, wires, poles, cables, culverts, drainage courses or systems and their appurtenances now existing and remaining in, on, under, over, across and through the Premises, together with the right to maintain, repair, renew, replace, use and remove same.

THIS INSTRUMENT is executed and delivered by Grantor, and is accepted by Grantee, subject to the covenants set forth below, which shall be deemed part of the consideration of this conveyance and which shall run with the land and be binding upon, and inure to the benefit of, the respective heirs, legal representatives, successors and assigns of Grantor and Grantee. Grantee hereby knowingly, willingly, and voluntarily waives the benefit of any rule, law, custom, or statute of the State of New Jersey now or hereafter in force with respect to the covenants set forth below:

TAX REFERENCE:
Block 247, Lot 50A

Robert W. Ryan
THIS INSTRUMENT PREPARED BY:
Robert W. Ryan
Consolidated Rail Corporation
2001 Market Street - 8th Floor
Philadelphia, PA 19103

A COPY OF THIS DEED
WAS SENT TO THE REGISTER'S OFFICE

(1.) Grantor shall neither be liable or obligated to construct or maintain any fence or similar structure between the Premises and adjoining land of Grantor nor shall Grantor be liable or obligated to pay for any part of the cost or expense of constructing or maintaining any fence or similar structure, and Grantee hereby forever releases Grantor from any loss or damage, direct or consequential, that may be caused by or arise from the lack or failure to maintain any such fence or similar structure.

(2.) Grantee hereby forever releases Grantor from all liability for any loss or damage, direct or consequential, to the Premises and to any buildings or improvements now or hereafter erected thereon and to the contents thereof, which may be caused by or arise from the normal operation, maintenance, repair, or renewal of Grantor's railroad, or which may be caused by or arise from vibration resulting from the normal operation, maintenance, repair or renewal thereof.

(3.) A. Allocation of Specific Obligations to Remediate.

The parties shall, as between themselves, allocate obligations pertaining to any Remediation with respect to the Premises in accordance with this Section, without regard to considerations of fault, failure or negligence.

(i) Grantee shall be responsible after the date of this Deed for any Remediation arising from the existence or presence of any contamination in, on or about the Premises, including without limitation, any Hazardous Substances, except as specifically provided otherwise in Subsection A(ii) below.

(ii) Grantor shall be responsible for Remediation of Hazardous Substances in, on or about the Premises, provided that such Hazardous Substances: (1) resulted from a condition created by Grantor during the time the Premises was owned by Grantor; and (2) are a violation of applicable environmental laws or regulations in effect and as interpreted on the date of this Deed. Notwithstanding the aforesaid, Grantor shall not be liable for any Remediation resulting from any condition: (a) that Grantee had knowledge of or reasonable basis to suspect as of the date of this Deed; or (b) that Grantee could have discovered its presence upon the Premises by a duly diligent examination of the Premises or public records related thereto; or (c) which Grantee has failed to immediately notify Grantor of as provided for below. Grantor's liability for any Remediation for which it is otherwise responsible hereunder shall be no greater than that resulting from the condition of the Premises existing as of the date of this Deed regardless of any increase in Remediation costs or liability created by or resulting from events occurring after the date of this Deed, including the passage of time.

(iii) If at any time after the date of this Deed, any Hazardous Substances are discovered which are or may be the responsibility of Grantor to Remediate pursuant to Subsection A(ii) above, then Grantee shall immediately notify Grantor of such Hazardous Substances, and Grantor shall have the opportunity and right to investigate, determine its responsibility therefor, determine in connection with appropriate governmental or regulatory bodies the appropriate response or remedy for such Hazardous Substances and Remediate, with its own forces or contractors and at its own expense, such Hazardous Substances to the satisfaction of appropriate regulatory bodies or to the additional extent deemed appropriate by Grantor. Grantor shall only be obligated to Remediate such Hazardous Substances to the extent that would be required for the now existing or most recent use of the Premises by Grantor, regardless of the current or proposed use of the Premises by Grantee. Grantee shall grant such rights of entry or other rights to Grantor, upon reasonable terms and without compensation, as may be necessary to allow Grantor to perform the inspections, remediation or other actions necessary to comply with this Subsection. In the event of a dispute concerning Grantor's responsibility for any Remediation hereunder, the parties shall cooperate to resolve such dispute as quickly as possible, and Grantee, unless required by valid judicial or regulatory order to take immediate action to Remediate a specific condition, shall, during the resolution of such dispute, take no actions inconsistent with Grantor's right to seek a determination from the appropriate regulatory or judicial body of the remedy required by law and to Remediate the Hazardous Substances with its own forces or contractors. Grantor shall not be liable to Grantee for any damages, costs or expenses incurred as a result of such Remediation, except that if Grantee is required by valid judicial or administrative order as provided above to take immediate action to Remediate any Hazardous Substances which are later determined

BK:07615 PG:00335

to be the responsibility of Grantor pursuant to this Subsection, Grantee shall be able to recover its actual and reasonable costs from Grantor.

B. Definition of "Hazardous Substance(s)". "Hazardous Substance(s)", as used in this Deed, shall mean any material or substance that is defined or classified as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601(14)) or Section 311 of the Federal Water Pollution Control Act (33 U.S.C. §1321); a "hazardous waste" pursuant to Section 1004 or 3001 of the Resource Conservation and Recovery Act (42 U.S.C. §§6903, 6921); a toxic pollutant under Section 307(a)(1) of the Federal Water Pollution Control Act (33 U.S.C. §1317(a)(1)); a "hazardous air pollutant" under Section 112 of the Clean Air Act (42 U.S.C. §7412); or a "hazardous material" under the Hazardous Materials Transportation Uniform Safety Act of 1990 (49 U.S.C. App. §1802(4)).

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D. Indemnity. The party made responsible by this Section for any Remediation shall: (1) satisfy said obligations; and (2) indemnify, defend and hold the other party (and its directors, officers, employees and agents) harmless from and against any claims, liabilities, judgments, settlements, costs and expenses (including without limitation, reasonable attorneys' fees) arising out of or in connection with said Remediation.

E. Release. As a material part of the consideration to Grantor for the conveyance of the Premises, Grantee hereby expressly and irrevocably releases and forever discharges, and by these presents does, for its successors and assigns, release and forever discharge Grantor (including, without limitation, its directors, officers, employees, and agents) from any and all actions, suits, controversies, damages (compensatory, punitive or consequential), judgments, claims and demands whatsoever, in law, or in equity, which Grantee ever had, now has, or which it or its successors and assigns hereafter can, shall or may have against Grantor, arising out of or in connection with the presence of any contamination on the Premises, including without limitation, any Hazardous Substances, except to the extent Grantor fails to comply with its obligations set forth in Subsection A(ii) above, or Grantee is entitled to recover the cost of any Remediation pursuant to Subsection A(ii). Grantee shall indemnify, defend and hold Grantor harmless from and against any and all claims, liabilities, judgments, settlements, costs and expenses (including without limitation, reasonable attorneys' fees) arising out of or in connection with Grantee's prosecution of any of its legal remedies against any third party who might have concurring or joint liability for matters for which Grantee has released Grantor pursuant to this Subsection. Each party expressly waives, to the extent it lawfully may do so: (i) the benefits of any statute that would relieve it of any obligations that it has assumed under this Section, and (ii) any defense predicated on alleged misrepresentations of fact or the nondisclosure of any fact.

(4.) Should a claim adverse to the title hereby quitclaimed be asserted and/or proved, no recourse shall be had against the Grantor herein.

EXCEPTING AND RESERVING, thereout and therefrom and unto the said Grantor, permanent, perpetual, exclusive, unrestricted and assignable easements and rights for any and all existing signboards and their appurtenances located on the Premises; together with the necessary, easements and rights for any necessary electric service lines and their appurtenances needed for illuminating said signboards; and together with rights and easements to construct, use, maintain, modify, enlarge, repair, renew, replace, rehabilitate and remove said signboards; and together with the right of immediate and unimpeded ingress and egress on, over, across, and through the Premises for the purposes aforesaid; and further together with the exclusive right to sell and assign such rights and to retain any and all revenues, income, charges, considerations and fees derived therefrom.

BK=07615 PG=00336

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of it, the said Grantor as well at law as in equity or otherwise howsoever of, in and to the same and every part thereof, UNDER and SUBJECT and EXCEPTING AND RESERVING as aforesaid.

TO HAVE AND TO HOLD, all and singular the said Premises, together with the appurtenances, unto the Grantee, the heirs or successors and assigns of the Grantee, forever, UNDER and SUBJECT and provided as aforesaid.

THE words "Grantor" and "Grantee" used herein shall be construed as if they read "Grantors" and "Grantees", respectively, whenever the sense of this instrument so requires and whether singular or plural, such words shall be deemed to include at all times and in all cases the heirs, legal representatives or successors and assigns of the Grantor and Grantee.

IN WITNESS WHEREOF, the Grantor has caused this Indenture to be signed in its name and behalf

EXHIBIT A

CASE NO. 72931-B

ALL THAT CERTAIN piece or parcel of land of the Grantor, together with all of the improvements thereon, being a portion of the line of railroad known as the Penn Central Harsimus Branch and identified as Line Code 1420, situate in the City of Jersey City, County of Hudson and State of New Jersey, said parcel being identified as Block 247, Lot 50A, and which is bounded and described in accordance with a Plat of Survey, identified as Project No. 0303332, dated December 29, 2004 and revised through February 23, 2005, prepared by Glen J. Lloyd, Professional Land Surveyor, New Jersey License No. GS37598, attached hereto and made a part hereof, as follows.

BEING a part or portion of the same premises which Fairfax Leary, as Trustee of the Property of the United New Jersey Railroad and Canal Company, Debtor, by Conveyance Document No. UNJ-CRC-RP-4, dated March 31, 1976 and recorded on October 10, 1979 in the Recorder's Office of Hudson County, New Jersey, in Liber 3286 at page 757&c.; and also Filed and Recorded in the Recorder's Office of the Secretary of State for the State of New Jersey on October 12, 1978, granted and conveyed unto Consolidated Rail Corporation.

A COPY OF THIS DEED
HAS BEEN SENT TO ASSESSOR'S OFFICE



SCHOOR DEPALMA
Engineers and Consultants

February 23, 2005

Project No. 030333202

LEGAL DESCRIPTION
LOT 50A, BLOCK 247
CITY OF JERSEY CITY
HUDSON COUNTY, NEW JERSEY

A COPY OF THIS DEED
HAS BEEN SENT TO ASSESSOR'S OFFICE

A parcel of land described herein, known and designated as Lot 50A, Block 247, City of Jersey City, Hudson County, New Jersey, as shown on a certain map entitled, "Boundary Survey, Lot M - Block 212, Lot 50A - Block 247, Lot 50A - Block 280, Lot 50A - Block 317.5, Lot 50A - Block 354.1, Lot 50 - Block 389.1, Lot 50 - Block 415 & Lot 18A - Block 446," prepared by Schoor DePalma, dated December 29, 2004 and revised to February 23, 2005, and being more particularly described as follows:

Beginning at the point of intersection of the westerly sideline of Manila Avenue (60 foot wide right-of-way) and the southerly sideline of Sixth Street (60 foot wide right-of-way) and running; thence,

1. Along said westerly sideline of Manila Avenue, south 06 degrees 22 minutes 03 seconds west, 100.00 feet; thence,
2. North 83 degrees 44 minutes 57 seconds west, 401.11 feet to the easterly sideline of Erie Street (60 foot wide right-of-way); thence,
3. Along said easterly sideline of Erie Street, north 06 degrees 22 minutes 03 seconds east, 100.00 feet a point of intersection with the aforementioned southerly sideline of Sixth Street; thence,
4. Along said southerly sideline of Sixth Street, south 83 degrees 44 minutes 57 seconds east, 401.11 feet to the point or place of beginning.

Containing 40,111 square feet more or less / 0.921 acres of land more or less as described herein.

Subject to all existing easements, rights-of-way and reservations of record.


Glen J. Lloyd, P.L.S.
N.J. Professional Land Surveyor
New Jersey License No. GS37598

n:\project\2003\0303332\02\m&bs\lot 50a, block 247.doc

BK:07615 PG:00339

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State of New Jersey

Seller's Residency Certification/Exemption

(C.55, P.L. 2004)

(Please Print or Type)

SELLER(S) INFORMATION (See Instructions, page 2):

Name(s) Consolidated Rail Corporation

Current Resident Address 405 Division Street, Suite 215

City, Town, Post Office Elizabeth State NJ Zip Code 07201

PROPERTY INFORMATION (Brief Property Description):

Block(s) 247 Lot(s) 50 A Qualifier _____

Street Address Manila Avenue and Sixth Street

City, Town, Post Office Jersey City State NJ Zip Code 07302

Seller's Percentage of Ownership 100% Consideration \$333,333.00 Closing Date 7/13/05

SELLER ASSURANCES (Check the Appropriate Box):

1. I am a resident taxpayer of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
2. The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the Federal Internal Revenue Code of 1986, 26 U.S.C. s. 121.
3. I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. Seller is not individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A. 54A:1-1 et seq.
6. The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:5-1-1 et seq.
7. The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1031, 1033 or is a cemetery plot. (CIRCLE THE APPLICABLE SECTION.) If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale.

SELLER(S) DECLARATION:

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete.

July 13, 2005

Date

Signature Robert W. Ryan, Director Real Estate

(Seller) Please indicate if Power of Attorney or Attorney in Fact

July 13, 2005

Date

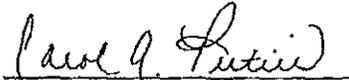
Signature Consolidated Rail Corporation

(Seller) Please indicate if Power of Attorney or Attorney in Fact

by its Director-Real Estate duly authorized thereunto and has caused its corporate seal to be hereunto affixed and attested by its Corporate Secretary, the day and year first above written.

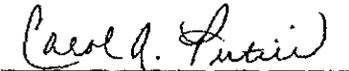
SEALED and
DELIVERED in the
presence of us:

CONSOLIDATED RAIL CORPORATION
By:


CAROL A. POTIRI


Robert W. Ryan
Director-Real Estate

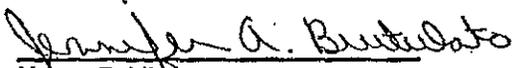
ATTEST:


CAROL A. POTIRI


Jonathan M. Broder
Corporate Secretary

COMMONWEALTH OF PENNSYLVANIA)
) : SS
COUNTY OF Philadelphia)

BE IT REMEMBERED, that on this 12th day of July in the year Two Thousand Five (2005), before me, the subscriber, a Notary Public for the Commonwealth and County aforesaid, personally appeared Robert W. Ryan, Director-Real Estate of CONSOLIDATED RAIL CORPORATION, the corporate Grantor named in the within Instrument, who I am satisfied is the person who has signed the within Instrument on behalf of said Corporation; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed and delivered the same as such officer aforesaid; that the foregoing Instrument is the voluntary act and deed of said Corporation, made by virtue of authority from its Board of Directors; and that the full and actual consideration paid or to be paid for the transfer of title to realty evidenced by the within Instrument as such consideration is THREE HUNDRED THIRTY THREE THOUSAND THREE HUNDRED THIRTY THREE Dollars (\$333,333).


Notary Public

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
JENNIFERA, BURTULATO, Notary Public
City of Philadelphia, Phila. County
My Commission Expires October 11, 2008

RECORD & RETURN TO
ALAMPI & DEMARRAS
ONE UNIVERSITY PLAZA
HACKENSACK NJ 07601

BK:07615 PG:00342

Exhibit C

Consideration : \$333333.00 Exempt Code: S

County	State	N.P.N.R.F	Total
333.83	833.42	275.25	1976.30
General	Public	Extra	1% Tax
0.00	166.75	367.05	0.00

Date: 07/18/2005

QUITCLAIM DEED (NJ)

Case 72931-C

07/18/2005 09:52A
BARBARA A. DONNELLY
HUDSON COUNTY
REGISTER OF DEEDS
RECEIVED No. 26

THIS DEED, made the 12th day of July, in the year of our Lord Two Thousand Five (2005),

BETWEEN CONSOLIDATED RAIL CORPORATION, a Corporation of the Commonwealth of Pennsylvania, having an office at Two Commerce Square, 2001 Market Street, 8TH Floor, Philadelphia, Pennsylvania, 19103, hereinafter referred to as the Grantor, and **280 ERIE STREET, L.L.C.**, a Limited Liability Company of the State of New Jersey, having a mailing address in care of Carmine R. Alampi, Esq., One University Plaza, Suite 404, Hackensack, NJ 07601, hereinafter referred to as the Grantee.

000011006
RECEIVED
AND
RECORDED
FEE

WITNESSETH, that the said Grantor, for and in consideration of the sum of THREE HUNDRED THIRTY THREE THOUSAND THREE HUNDRED THIRTY THREE DOLLARS (\$333,333) lawful money of the United States of America, unto it well and truly paid by the said Grantee, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, Grantor does by these presents, remise, release and forever quitclaim unto the said Grantee, the heirs or successors and assigns of the said Grantee, all right, title and interest of the said Grantor of, in and to the Premises as more particularly described on Exhibit 'A', pages 1 of 3 through 3 of 3, appended hereto and made a part hereof.

EXCEPTING AND RESERVING, thereout and therefrom and unto the said Grantor, permanent, perpetual, exclusive, assignable and unrestricted easements and rights for any and all existing sewer, gas and water lines, poles, pipes, wires, cables, power, signal and communication lines, fiber optic lines, telecommunication lines and all their appurtenances, hereinafter referred to as "facilities", located in, on, under, over, above, beneath the surface, across or through the Premises; and together with the right to use, maintain, repair, replace, renew, rehabilitate and remove said facilities and their appurtenances.

UNDER and SUBJECT, however, to (1) whatever rights the public may have to the use of any roads, alleys, bridges or streets crossing the Premises, (2) any streams, rivers, creeks and water ways passing under, across or through the Premises, and (3) any easements or agreements of record or otherwise affecting the Premises, and to the state of facts which a personal inspection or accurate survey would disclose, and to any pipes, wires, poles, cables, culverts, drainage courses or systems and their appurtenances now existing and remaining in, on, under, over, across and through the Premises, together with the right to maintain, repair, renew, replace, use and remove same.

THIS INSTRUMENT is executed and delivered by Grantor, and is accepted by Grantee, subject to the covenants set forth below, which shall be deemed part of the consideration of this conveyance and which shall run with the land and be binding upon, and inure to the benefit of, the respective heirs, legal representatives, successors and assigns of Grantor and Grantee. Grantee hereby knowingly, willingly, and voluntarily waives the benefit of any rule, law, custom, or statute of the State of New Jersey now or hereafter in force with respect to the covenants set forth below:

TAX REFERENCE:
Block 280 Lot 50A and Lot B-1

Robert W. Ryan
THIS INSTRUMENT PREPARED BY:
Robert W. Ryan
Consolidated Rail Corporation
2001 Market Street - 8th Floor
Philadelphia, PA 19103

A COPY OF THIS DEED
HAS BEEN SENT TO ASSESSOR'S OFFICE

BK=07615 PG=00325

(1.) Grantor shall neither be liable or obligated to construct or maintain any fence or similar structure between the Premises and adjoining land of Grantor nor shall Grantor be liable or obligated to pay for any part of the cost or expense of constructing or maintaining any fence or similar structure, and Grantee hereby forever releases Grantor from any loss or damage, direct or consequential, that may be caused by or arise from the lack or failure to maintain any such fence or similar structure.

(2.) Grantee hereby forever releases Grantor from all liability for any loss or damage, direct or consequential, to the Premises and to any buildings or improvements now or hereafter erected thereon and to the contents thereof, which may be caused by or arise from the normal operation, maintenance, repair, or renewal of Grantor's railroad, or which may be caused by or arise from vibration resulting from the normal operation, maintenance, repair or renewal thereof.

(3.) A. Allocation of Specific Obligations to Remediate.

The parties shall, as between themselves, allocate obligations pertaining to any Remediation with respect to the Premises in accordance with this Section, without regard to considerations of fault, failure or negligence.

(i) Grantee shall be responsible after the date of this Deed for any Remediation arising from the existence or presence of any contamination in, on or about the Premises, including without limitation, any Hazardous Substances, except as specifically provided otherwise in Subsection A(ii) below.

(ii) Grantor shall be responsible for Remediation of Hazardous Substances in, on or about the Premises, provided that such Hazardous Substances: (1) resulted from a condition created by Grantor during the time the Premises was owned by Grantor; and (2) are a violation of applicable environmental laws or regulations in effect and as interpreted on the date of this Deed. Notwithstanding the aforesaid, Grantor shall not be liable for any Remediation resulting from any condition: (a) that Grantee had knowledge of or reasonable basis to suspect as of the date of this Deed; or (b) that Grantee could have discovered its presence upon the Premises by a duly diligent examination of the Premises or public records related thereto; or (c) which Grantee has failed to immediately notify Grantor of as provided for below. Grantor's liability for any Remediation for which it is otherwise responsible hereunder shall be no greater than that resulting from the condition of the Premises existing as of the date of this Deed regardless of any increase in Remediation costs or liability created by or resulting from events occurring after the date of this Deed, including the passage of time.

(iii) If at any time after the date of this Deed, any Hazardous Substances are discovered which are or may be the responsibility of Grantor to Remediate pursuant to Subsection A(ii) above, then Grantee shall immediately notify Grantor of such Hazardous Substances, and Grantor shall have the opportunity and right to investigate, determine its responsibility therefor, determine in connection with appropriate governmental or regulatory bodies the appropriate response or remedy for such Hazardous Substances and Remediate, with its own forces or contractors and at its own expense, such Hazardous Substances to the satisfaction of appropriate regulatory bodies or to the additional extent deemed appropriate by Grantor. Grantor shall only be obligated to Remediate such Hazardous Substances to the extent that would be required for the now existing or most recent use of the Premises by Grantor, regardless of the current or proposed use of the Premises by Grantee. Grantee shall grant such rights of entry or other rights to Grantor, upon reasonable terms and without compensation, as may be necessary to allow Grantor to perform the inspections, remediation or other actions necessary to comply with this Subsection. In the event of a dispute concerning Grantor's responsibility for any Remediation hereunder, the parties shall cooperate to resolve such dispute as quickly as possible, and Grantee, unless required by valid judicial or regulatory order to take immediate action to Remediate a specific condition, shall, during the resolution of such dispute, take no actions inconsistent with Grantor's right to seek a determination from the appropriate regulatory or judicial body of the remedy required by law and to Remediate the Hazardous Substances with its own forces or contractors. Grantor shall not be liable to Grantee for any damages, costs or expenses incurred as a result of such Remediation, except that if Grantee is required by valid judicial or administrative order as provided above to take immediate action to Remediate any Hazardous Substances which are later determined

to be the responsibility of Grantor pursuant to this Subsection, Grantee shall be able to recover its actual and reasonable costs from Grantor.

B. Definition of "Hazardous Substance(s)". "Hazardous Substance(s)", as used in this Deed, shall mean any material or substance that is defined or classified as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601(14)) or Section 311 of the Federal Water Pollution Control Act (33 U.S.C. §1321); a "hazardous waste" pursuant to Section 1004 or 3001 of the Resource Conservation and Recovery Act (42 U.S.C. §§6903, 6921); a toxic pollutant under Section 307(a)(1) of the Federal Water Pollution Control Act (33 U.S.C. §1317(a)(1)); a "hazardous air pollutant" under Section 112 of the Clean Air Act (42 U.S.C. §7412); or a "hazardous material" under the Hazardous Materials Transportation Uniform Safety Act of 1990 (49 U.S.C. App. §1802(4)).

C. Definition of "Remediate" and "Remediation". "Remediate" or "Remediation", as used in this Deed, shall mean, any reasonable investigation and the formulation and implementation of any remedial action, containment, cleanup, response, treatment, removal, mitigation, abatement, elimination or control of any contamination.

D. Indemnity. The party made responsible by this Section for any Remediation shall: (1) satisfy said obligations; and (2) indemnify, defend and hold the other party (and its directors, officers, employees and agents) harmless from and against any claims, liabilities, judgments, settlements, costs and expenses (including without limitation, reasonable attorneys' fees) arising out of or in connection with said Remediation.

E. Release. As a material part of the consideration to Grantor for the conveyance of the Premises, Grantee hereby expressly and irrevocably releases and forever discharges, and by these presents does, for its successors and assigns, release and forever discharge Grantor (including, without limitation, its directors, officers, employees, and agents) from any and all actions, suits, controversies, damages (compensatory, punitive or consequential), judgments, claims and demands whatsoever, in law, or in equity, which Grantee ever had, now has, or which it or its successors and assigns hereafter can, shall or may have against Grantor, arising out of or in connection with the presence of any contamination on the Premises, including without limitation, any Hazardous Substances, except to the extent Grantor fails to comply with its obligations set forth in Subsection A(ii) above, or Grantee is entitled to recover the cost of any Remediation pursuant to Subsection A(ii). Grantee shall indemnify, defend and hold Grantor harmless from and against any and all claims, liabilities, judgments, settlements, costs and expenses (including without limitation, reasonable attorneys' fees) arising out of or in connection with Grantee's prosecution of any of its legal remedies against any third party who might have concurring or joint liability for matters for which Grantee has released Grantor pursuant to this Subsection. Each party expressly waives, to the extent it lawfully may do so: (i) the benefits of any statute that would relieve it of any obligations that it has assumed under this Section, and (ii) any defense predicated on alleged misrepresentations of fact or the nondisclosure of any fact.

(4.) Should a claim adverse to the title hereby quitclaimed be asserted and/or proved, no recourse shall be had against the Grantor herein.

EXCEPTING AND RESERVING, thereout and therefrom and unto the said Grantor, permanent, perpetual, exclusive, unrestricted and assignable easements and rights for any and all existing signboards and their appurtenances located on the Premises; together with the necessary; easements and rights for any necessary electric service lines and their appurtenances needed for illuminating said signboards; and together with rights and easements to construct, use, maintain, modify, enlarge, repair, renew, replace, rehabilitate and remove said signboards; and together with the right of immediate and unimpeded ingress and egress on, over, across, and through the Premises for the purposes aforesaid; and further together with the exclusive right to sell and assign such rights and to retain any and all revenues, income, charges, considerations and fees derived therefrom.

BK:07615 PG:00327

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of it, the said Grantor as well at law as in equity or otherwise howsoever of, in and to the same and every part thereof, UNDER and SUBJECT and EXCEPTING AND RESERVING as aforesaid.

TO HAVE AND TO HOLD, all and singular the said Premises, together with the appurtenances, unto the Grantee, the heirs or successors and assigns of the Grantee, forever, UNDER and SUBJECT and provided as aforesaid.

THE words "Grantor" and "Grantee" used herein shall be construed as if they read "Grantors" and "Grantees", respectively, whenever the sense of this instrument so requires and whether singular or plural, such words shall be deemed to include at all times and in all cases the heirs, legal representatives or successors and assigns of the Grantor and Grantee.

IN WITNESS WHEREOF, the Grantor has caused this Indenture to be signed in its name and behalf

BK:07615 PG:00328

EXHIBIT A

CASE NO. 72931-C

**A PART OF THIS DEED
HAS BEEN SENT TO ASSESSOR'S OFFICE**

ALL THAT CERTAIN piece or parcel of land of the Grantor, together with all of the improvements thereon, being a portion of the line of railroad known as the Penn Central Harsimus Branch and identified as Line Code 1420, situate in the City of Jersey City, County of Hudson and State of New Jersey, said parcel being identified as Block 280, Lot 50A and Lot B-1; and which is bounded and described in accordance with a Plat of Survey, identified as Project No. 0303332, dated December 29, 2004 and revised through February 23, 2005, prepared by Glen J. Lloyd, Professional Land Surveyor, New Jersey License No. GS37598, attached hereto and made a part hereof, as follows.

BEING a part or portion of the same premises which Fairfax Leary, as Trustee of the Property of the United New Jersey Railroad and Canal Company, Debtor, by Conveyance Document No. UNJ-CRC-RP-4, dated March 31, 1976 and recorded on October 10, 1979 in the Recorder's Office of Hudson County, New Jersey, in Liber 3286 at page 757&c.; and also Filed and Recorded in the Recorder's Office of the Secretary of State for the State of New Jersey on October 12, 1978, granted and conveyed unto Consolidated Rail Corporation.



SCHOOR DEPALMA
Engineers and Consultants

February 23, 2005
Revised July 11, 2005

Project No. 030333202

LEGAL DESCRIPTION
LOT 50A AND LOT B-1, BLOCK 280
CITY OF JERSEY CITY
HUDSON COUNTY, NEW JERSEY

A COPY OF THIS DEED
HAS BEEN SENT TO ASSESSOR'S OFFICE

A parcel of land described herein, known and designated as Lot 50A and Lot B-1, Block 280, City of Jersey City, Hudson County, New Jersey, as shown on a certain map entitled, "Boundary Survey, Lot M - Block 212, Lot 50A - Block 247, Lot 50A - Block 280, Lot 50A - Block 317.5, Lot 50A - Block 354.1, Lot 50 - Block 389.1, Lot 50 - Block 415 & Lot 18A - Block 446," prepared by Schoor DePalma, dated December 29, 2004 and revised to February 23, 2005, and being more particularly described as follows:

Beginning at the point of intersection of the westerly sideline of Erie Street (60 foot wide right-of-way) and the southerly sideline of Sixth Street (60 foot wide right-of-way) and running; thence,

1. Along said westerly sideline of Erie Street, south 06 degrees 22 minutes 03 seconds west, 100.00 feet; thence,
2. North 83 degrees 44 minutes 57 seconds west, 320.22 feet; thence,
3. South 06 degrees 22 minutes 03 seconds west, 16.67 feet; thence,
4. North 83 degrees 44 minutes 57 seconds west, 80.00 feet to the easterly sideline of Jersey Avenue (80 ft. wide right-of-way); thence,
5. Along said easterly sideline of Jersey Avenue, north 06 degrees 22 minutes 03 seconds east, 116.67 feet to a point of intersection with the aforementioned southerly sideline of Sixth Street; thence,
6. Along said southerly sideline of Sixth Street, south 83 degrees 44 minutes 57 seconds east, 400.22 feet to the point or place of beginning.

Containing 41,356 square feet more or less / 0.949 acres of land more or less as described herein.

Subject to all existing easements, rights-of-way and reservations of record.

Glen J. Lloyd, P.L.S.
N.J. Professional Land Surveyor
New Jersey License No. GS37598

n:\project\2003\0303332\02\m&bs\lot 50a, block 280.doc

EXHIBIT "A", Page 2 of 3

Your bottom line results partner. •

20 Waterview Boulevard, PO Box 5245, Parsippany, NJ 07054-6245 Tel: 973.299.7970 Fax: 973.334.5588
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Philadelphia ■ Stafford ■ Voorhees ■ White Plains

www.schoordepalma.com
000069

PG:00330

State of New Jersey

Seller's Residency Certification/Exemption

(C.55, P.L. 2004)

(Please Print or Type)

SELLER(S) INFORMATION (See Instructions, page 2):

Name(s) Consolidated Rail Corporation

Current Resident Address 405 Division Street, Suite 215

City, Town, Post Office Elizabeth

State NJ

Zip Code 07201

PROPERTY INFORMATION (Brief Property Description):

Block(s) 280

Lot(s) B.1 and 50 A

Qualifier _____

Street Address Erie Street and Sixth Street

City, Town, Post Office Jersey City

State NJ

Zip Code 07302

Seller's Percentage of Ownership 100%

Consideration \$333,333.00

Closing Date 7/13/05

SELLER ASSURANCES (Check the Appropriate Box):

1. I am a resident taxpayer of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
2. The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the Federal Internal Revenue Code of 1986, 26 U.S.C. s. 121.
3. I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. Seller is not individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A.54A:1-1 et seq.
6. The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:5-1-1 et seq.
7. The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1031, 1033 or is a cemetery plot. (CIRCLE THE APPLICABLE SECTION.) If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale.

SELLER(S) DECLARATION:

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete.

July 13, 2005

Date

Signature Robert W. Ryan, Director Real Estate
(Seller) Please indicate if Power of Attorney or Attorney in Fact

July 13, 2005

Date

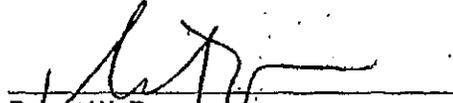
Signature Consolidated Rail Corporation
(Seller) Please indicate if Power of Attorney or Attorney in Fact

by its Director-Real Estate duly authorized thereunto and has caused its corporate seal to be hereunto affixed and attested by its Corporate Secretary, the day and year first above written.

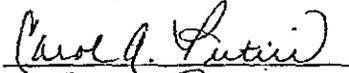
SEALED and
DELIVERED in the
presence of us:

CONSOLIDATED RAIL CORPORATION
By:


CAROL A. PUTIRI


Robert W. Ryan
Director-Real Estate

ATTEST:


CAROL A. PUTIRI


Jonathan M. Broder
Corporate Secretary

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF Philadelphia) : SS

BE IT REMEMBERED, that on this 10th day of July in the year Two Thousand Five (2005), before me, the subscriber, a Notary Public for the Commonwealth and County aforesaid, personally appeared Robert W. Ryan, Director-Real Estate of CONSOLIDATED RAIL CORPORATION, the corporate Grantor named in the within instrument, who I am satisfied is the person who has signed the within instrument on behalf of said Corporation; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed and delivered the same as such officer aforesaid; that the foregoing instrument is the voluntary act and deed of said Corporation, made by virtue of authority from its Board of Directors; and that the full and actual consideration paid or to be paid for the transfer of title to realty evidenced by the within instrument as such consideration is THREE HUNDRED THIRTY THREE THOUSAND THREE HUNDRED THIRTY THREE Dollars (\$333,333).


Notary Public

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
JENNIFER A. BURTULATO, Notary Public
City of Philadelphia, Phila. County
My Commission Expires October 11, 2008

RECORD & RETURN TO:
ALANNE & DEMARRAIS
ONE UNIVERSITY PLAZA
HACKENSACK NJ 07601

BK=07615 PG=00333

Exhibit D

Consideration : \$333333.00 Exempt Code: S

County	State	N.P.N.R.F	Total
333.83	833.42	275.25	1976.30
General	Public	Extra	1% Tax
0.00	166.75	367.05	0.00

QUITCLAIM DEED (NJ)

Case 72931-D

07/18/2005 09:52A
BARBARA A. DONNELLY
HUDSON COUNTY
CLERK OF DEEDS
RECEIVED AND RECORDED
DEC 10 2005

THIS DEED, made the 12th day of July, in the year of our Lord Two Thousand Five

BETWEEN CONSOLIDATED RAIL CORPORATION, a Corporation of the Commonwealth of Pennsylvania, having an office at Two Commerce Square, 2001 Market Street, 8TH Floor, Philadelphia, Pennsylvania, 19103, hereinafter referred to as the Grantor, and 317 JERSEY AVENUE, L.L.C., a Limited Liability Company of the State of New Jersey, having a mailing address in care of Carmine R. Alampi, Esq., One University Plaza, Suite 404, Hackensack, NJ 07601, hereinafter referred to as the Grantee.

WITNESSETH, that the said Grantor, for and in consideration of the sum of THREE HUNDRED THIRTY THREE THOUSAND THREE HUNDRED THIRTY THREE DOLLARS (\$333,333) lawful money of the United States of America, unto it well and truly paid by the said Grantee, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, Grantor does by these presents, remise, release and forever quitclaim unto the said Grantee, the heirs or successors and assigns of the said Grantee, all right, title and interest of the said Grantor of, in and to the Premises as more particularly described on Exhibit 'A', pages 1 of 3 through 3 of 3, appended hereto and made a part hereof.

EXCEPTING AND RESERVING, thereout and therefrom and unto the said Grantor, permanent, perpetual, exclusive, assignable and unrestricted easements and rights for any and all existing sewer, gas and water lines, poles, pipes, wires, cables, power, signal and communication lines, fiber optic lines, telecommunication lines and all their appurtenances, hereinafter referred to as "facilities", located in, on, under, over, above, beneath the surface, across or through the Premises; and together with the right to use, maintain, repair, replace, renew, rehabilitate and remove said facilities and their appurtenances.

UNDER and SUBJECT, however, to (1) whatever rights the public may have to the use of any roads, alleys, bridges or streets crossing the Premises, (2) any streams, rivers, creeks and water ways passing under, across or through the Premises, and (3) any easements or agreements of record or otherwise affecting the Premises, and to the state of facts which a personal inspection or accurate survey would disclose, and to any pipes, wires, poles, cables, culverts, drainage courses or systems and their appurtenances now existing and remaining in, on, under, over, across and through the Premises, together with the right to maintain, repair, renew, replace, use and remove same.

THIS INSTRUMENT is executed and delivered by Grantor, and is accepted by Grantee, subject to the covenants set forth below, which shall be deemed part of the consideration of this conveyance and which shall run with the land and be binding upon, and inure to the benefit of, the respective heirs, legal representatives, successors and assigns of Grantor and Grantee. Grantee hereby knowingly, willingly, and voluntarily waives the benefit of any rule, law, custom, or statute of the State of New Jersey now or hereafter in force with respect to the covenants set forth below:

TAX REFERENCE:
Block 317.5, Lot 50-A.

A COPY OF THIS DEED
HAS BEEN SENT TO ASSessor'S OFFICE

Robert W. Ryan

THIS INSTRUMENT PREPARED BY:
Robert W. Ryan
Consolidated Rail Corporation
2001 Market Street - 8th Floor
Philadelphia, PA 19103

BK=07615 PG=00316

(1.) Grantor shall neither be liable or obligated to construct or maintain any fence or similar structure between the Premises and adjoining land of Grantor nor shall Grantor be liable or obligated to pay for any part of the cost or expense of constructing or maintaining any fence or similar structure, and Grantee hereby forever releases Grantor from any loss or damage, direct or consequential, that may be caused by or arise from the lack or failure to maintain any such fence or similar structure.

(2.) Grantee hereby forever releases Grantor from all liability for any loss or damage, direct or consequential, to the Premises and to any buildings or improvements now or hereafter erected thereon and to the contents thereof, which may be caused by or arise from the normal operation, maintenance, repair, or renewal of Grantor's railroad, or which may be caused by or arise from vibration resulting from the normal operation, maintenance, repair or renewal thereof.

(3.) A. Allocation of Specific Obligations to Remediate.

The parties shall, as between themselves, allocate obligations pertaining to any Remediation with respect to the Premises in accordance with this Section, without regard to considerations of fault, failure or negligence.

(i) Grantee shall be responsible after the date of this Deed for any Remediation arising from the existence or presence of any contamination in, on or about the Premises, including without limitation, any Hazardous Substances, except as specifically provided otherwise in Subsection A(ii) below.

(ii) Grantor shall be responsible for Remediation of Hazardous Substances in, on or about the Premises, provided that such Hazardous Substances: (1) resulted from a condition created by Grantor during the time the Premises was owned by Grantor; and (2) are a violation of applicable environmental laws or regulations in effect and as interpreted on the date of this Deed. Notwithstanding the aforesaid, Grantor shall not be liable for any Remediation resulting from any condition: (a) that Grantee had knowledge of or reasonable basis to suspect as of the date of this Deed; or (b) that Grantee could have discovered its presence upon the Premises by a duly diligent examination of the Premises or public records related thereto; or (c) which Grantee has failed to immediately notify Grantor of as provided for below. Grantor's liability for any Remediation for which it is otherwise responsible hereunder shall be no greater than that resulting from the condition of the Premises existing as of the date of this Deed regardless of any increase in Remediation costs or liability created by or resulting from events occurring after the date of this Deed, including the passage of time.

(iii) If at any time after the date of this Deed, any Hazardous Substances are discovered which are or may be the responsibility of Grantor to Remediate pursuant to Subsection A(ii) above, then Grantee shall immediately notify Grantor of such Hazardous Substances, and Grantor shall have the opportunity and right to investigate, determine its responsibility therefor, determine in connection with appropriate governmental or regulatory bodies the appropriate response or remedy for such Hazardous Substances and Remediate, with its own forces or contractors and at its own expense, such Hazardous Substances to the satisfaction of appropriate regulatory bodies or to the additional extent deemed appropriate by Grantor. Grantor shall only be obligated to Remediate such Hazardous Substances to the extent that would be required for the now existing or most recent use of the Premises by Grantor, regardless of the current or proposed use of the Premises by Grantee. Grantee shall grant such rights of entry or other rights to Grantor, upon reasonable terms and without compensation, as may be necessary to allow Grantor to perform the inspections, remediation or other actions necessary to comply with this Subsection. In the event of a dispute concerning Grantor's responsibility for any Remediation hereunder, the parties shall cooperate to resolve such dispute as quickly as possible, and Grantee, unless required by valid judicial or regulatory order to take immediate action to Remediate a specific condition, shall, during the resolution of such dispute, take no actions inconsistent with Grantor's right to seek a determination from the appropriate regulatory or judicial body of the remedy required by law and to Remediate the Hazardous Substances with its own forces or contractors. Grantor shall not be liable to Grantee for any damages, costs or expenses incurred as a result of such Remediation, except that if Grantee is required by valid judicial or administrative order as provided

above to take immediate action to Remediate any Hazardous Substances which are later determined to be the responsibility of Grantor pursuant to this Subsection, Grantee shall be able to recover its actual and reasonable costs from Grantor.

B. Definition of "Hazardous Substance(s)". "Hazardous Substance(s)", as used in this Deed, shall mean any material or substance that is defined or classified as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601(14)) or Section 311 of the Federal Water Pollution Control Act (33 U.S.C. §1321); a "hazardous waste" pursuant to Section 1004 or 3001 of the Resource Conservation and Recovery Act (42 U.S.C. §§6903, 6921); a toxic pollutant under Section 307(a)(1) of the Federal Water Pollution Control Act (33 U.S.C. §1317(a)(1)); a "hazardous air pollutant" under Section 112 of the Clean Air Act (42 U.S.C. §7412); or a "hazardous material" under the Hazardous Materials Transportation Uniform Safety Act of 1990 (49 U.S.C. App. §1802(4)).

C. Definition of "Remediate" and "Remediation". "Remediate" or "Remediation", as used in this Deed, shall mean, any reasonable investigation and the formulation and implementation of any remedial action, containment, cleanup, response, treatment, removal, mitigation, abatement, elimination or control of any contamination.

D. Indemnity. The party made responsible by this Section for any Remediation shall: (1) satisfy said obligations; and (2) indemnify, defend and hold the other party (and its directors, officers, employees and agents) harmless from and against any claims, liabilities, judgments, settlements, costs and expenses (including without limitation, reasonable attorneys' fees) arising out of or in connection with said Remediation.

E. Release. As a material part of the consideration to Grantor for the conveyance of the Premises, Grantee hereby expressly and irrevocably releases and forever discharges, and by these presents does, for its successors and assigns, release and forever discharge Grantor (including, without limitation, its directors, officers, employees, and agents) from any and all actions, suits, controversies, damages (compensatory, punitive or consequential), judgments, claims and demands whatsoever, in law, or in equity, which Grantee ever had, now has, or which it or its successors and assigns hereafter can, shall or may have against Grantor, arising out of or in connection with the presence of any contamination on the Premises, including without limitation, any Hazardous Substances, except to the extent Grantor fails to comply with its obligations set forth in Subsection A(ii) above, or Grantee is entitled to recover the cost of any Remediation pursuant to Subsection A(ii). Grantee shall indemnify, defend and hold Grantor harmless from and against any and all claims, liabilities, judgments, settlements, costs and expenses (including without limitation, reasonable attorneys' fees) arising out of or in connection with Grantee's prosecution of any of its legal remedies against any third party who might have concurring or joint liability for matters for which Grantee has released Grantor pursuant to this Subsection. Each party expressly waives, to the extent it lawfully may do so: (i) the benefits of any statute that would relieve it of any obligations that it has assumed under this Section, and (ii) any defense predicated on alleged misrepresentations of fact or the nondisclosure of any fact.

(4.) Should a claim adverse to the title hereby quitclaimed be asserted and/or proved, no recourse shall be had against the Grantor herein.

EXCEPTING AND RESERVING, thereout and therefrom and unto the said Grantor, permanent, perpetual, exclusive, unrestricted and assignable easements and rights for any and all existing signboards and their appurtenances located on the Premises; together with the necessary; easements and rights for any necessary electric service lines and their appurtenances needed for illuminating said signboards; and together with rights and easements to construct, use, maintain, modify, enlarge, repair, renew, replace, rehabilitate and remove said signboards; and together with the right of immediate and unimpeded ingress and egress on, over, across, and through the Premises for

BK:07615 PG:00318

the purposes aforesaid; and further together with the exclusive right to sell and assign such rights and to retain any and all revenues, income, charges, considerations and fees derived therefrom.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of it, the said Grantor as well at law as in equity or otherwise howsoever of, in and to the same and every part thereof, UNDER and SUBJECT and EXCEPTING AND RESERVING as aforesaid.

TO HAVE AND TO HOLD, all and singular the said Premises, together with the appurtenances, unto the Grantee, the heirs or successors and assigns of the Grantee, forever, UNDER and SUBJECT and provided as aforesaid.

THE words "Grantor" and "Grantee" used herein shall be construed as if they read "Grantors" and "Grantees", respectively, whenever the sense of this instrument so requires and whether singular or plural, such words shall be deemed to include at all times and in all cases the heirs, legal representatives or successors and assigns of the Grantor and Grantee.

IN WITNESS WHEREOF, the Grantor has caused this Indenture to be signed in its name and behalf

BK:07615 PG:00319

EXHIBIT A

CASE NO. 72931-D

ALL THAT CERTAIN piece or parcel of land of the Grantor, together with all of the improvements thereon, being a portion of the line of railroad known as the Penn Central Harsimus Branch and identified as Line Code 1420, situate in the City of Jersey City, County of Hudson and State of New Jersey, said parcel being identified as Block 317.5, Lot 50A, and which is bounded and described in accordance with a Plat of Survey, identified as Project No. 0303332, dated December 29, 2004 and revised through February 23, 2005, prepared by Glen J. Lloyd, Professional Land Surveyor, New Jersey License No. GS37598, attached hereto and made a part hereof, as follows.

BEING a part or portion of the same premises which Fairfax Leary, as Trustee of the Property of the United New Jersey Railroad and Canal Company, Debtor, by Conveyance Document No. UNJ-CRC-RP-4, dated March 31, 1976 and recorded on October 10, 1979 in the Recorder's Office of Hudson County, New Jersey, in Liber 3286 at page 757&c.; and also Filed and Recorded in the Recorder's Office of the Secretary of State for the State of New Jersey on October 12, 1978, granted and conveyed unto Consolidated Rail Corporation.

A COPY OF THIS DEED
HAS BEEN FILED TO ASSESSOR'S OFFICE



SCHOOR DEPALMA
Engineers and Consultants

February 23, 2005

Project No. 030333202

LEGAL DESCRIPTION
LOT 50A, BLOCK 317.5
CITY OF JERSEY CITY
HUDSON COUNTY, NEW JERSEY.

A COPY OF THIS DEED
HAS BEEN SENT TO ASSESSOR'S OFFICE

A parcel of land described herein, known and designated as Lot 50, Block 317.5, City of Jersey City, Hudson County, New Jersey, as shown on a certain map entitled, "Boundary Survey, Lot M - Block 212, Lot 50A - Block 247, Lot 50A - Block 280, Lot 50A - Block 317.5, Lot 50A - Block 354.1, Lot 50 - Block 389.1, Lot 50 - Block 415 & Lot 18A - Block 446," prepared by Schoor DePalma, dated December 29, 2004 and revised to February 23, 2005, and being more particularly described as follows:

Beginning at the point of intersection of the westerly sideline of Jersey Avenue (80 foot wide right-of-way) and the southerly sideline of Sixth Street (60 foot wide right-of-way) and running; thence,

1. Along said westerly sideline of Jersey Avenue, south 06 degrees 22 minutes 03 seconds west, 100.00 feet to the centerline of a 10 foot wide alley; thence,
2. Along said centerline, north 83 degrees 44 minutes 57 seconds west, 401.30 feet to the easterly sideline of Coles Street (60 foot wide right-of-way); thence,
3. Along said easterly sideline of Coles Street, north 06 degrees 22 minutes 03 seconds east, 100.00 feet to a point of intersection with the aforementioned southerly sideline of Sixth Street; thence,
4. Along said southerly sideline of Sixth Street, south 83 degrees 44 minutes 57 seconds east, 401.30 feet to the point or place of beginning.

Containing 40,130 square feet more or less / 0.921 acres of land more or less as described herein.

Subject to all existing easements, rights-of-way and reservations of record.


Glen J. Lloyd, P.L.S.
N.J. Professional Land Surveyor
New Jersey License No. GS37598

n:\project\2003\0303332\02\m&bs\lot 50a, block 317.5.doc

BK:07615 PG:00321

Your bottom line results partner. *

State of New Jersey

Seller's Residency Certification/Exemption

(C.55, P.L. 2004)

(Please Print or Type)

SELLER(S) INFORMATION (See Instructions, page 2):

Name(s) Consolidated Rail Corporation

Current Resident Address 405 Division Street, Suite 215

City, Town, Post Office Elizabeth State NJ Zip Code 07201

PROPERTY INFORMATION (Brief Property Description):

Block(s) 317.5 Lot(s) 50 A Qualifier _____

Street Address Jersey Avenue and Sixth Street

City, Town, Post Office Jersey City State NJ Zip Code 07302

Seller's Percentage of Ownership 100% Consideration \$333,333.00 Closing Date 7/13/05

SELLER ASSURANCES (Check the Appropriate Box):

- 1. I am a resident taxpayer of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
- 2. The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the Federal Internal Revenue Code of 1986, 26 U.S.C. s. 121.
- 3. I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
- 4. Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
- 5. Seller is not individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A. 54A:1-1 et seq.
- 6. The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:5-1-1 et seq.
- 7. The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1031, 1033 or is a cemetery plot. (CIRCLE THE APPLICABLE SECTION.) If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale.

SELLER(S) DECLARATION:

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete.

July 13, 2005

Date

Signature Robert W. Ryan, Director Real Estate
(Seller) Please indicate if Power of Attorney or Attorney in Fact

July 13, 2005

Date

Signature Consolidated Rail Corporation
(Seller) Please indicate if Power of Attorney or Attorney in Fact

p c 3 2 3

by its Director-Real Estate duly authorized thereunto and has caused its corporate seal to be hereunto affixed and attested by its Corporate Secretary, the day and year first above written.

SEALED and
DELIVERED in the
presence of us:

CONSOLIDATED RAIL CORPORATION

By:

Carol A. Putiri
CAROL A. PUTIRI

Robert W. Ryan
Robert W. Ryan
Director-Real Estate

ATTEST:

Carol A. Putiri
CAROL A. PUTIRI

Jonathan M. Broder
Jonathan M. Broder
Corporate Secretary

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF Philadelphia) : SS

BE IT REMEMBERED, that on this 14th day of July in the year Two Thousand Five (2005), before me, the subscriber, a Notary Public for the Commonwealth and County aforesaid, personally appeared Robert W. Ryan, Director-Real Estate of CONSOLIDATED RAIL CORPORATION, the corporate Grantor named in the within Instrument, who I am satisfied is the person who has signed the within Instrument on behalf of said Corporation; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed and delivered the same as such officer aforesaid; that the foregoing Instrument is the voluntary act and deed of said Corporation, made by virtue of authority from its Board of Directors; and that the full and actual consideration paid or to be paid for the transfer of title to realty evidenced by the within Instrument as such consideration is THREE HUNDRED THIRTY THREE THOUSAND THREE HUNDRED THIRTY THREE Dollars (\$333,333).

Jennifer A. Burtulato
Notary Public

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
JENNIFER A. BURTULATO, Notary Public
City of Philadelphia, Phila. County
My Commission Expires October 11, 2008

RECORD & RETURN TO
ALANOR & DEMARRAS
ONE UNIVERSITY PLAZA
HACKENSACK NJ 07601

BK:07615 PG:00324

Exhibit E

Consideration : \$333333.00 Exempt Code: S

County	State	N.P.N.R.F	Total
333.83	833.42	275.25	1976.30
General	Public	Extra	1% Tax
0.00	166.75	367.05	0.00

QUITCLAIM DEED (NJ)

07/18/2005 09:51A
BARBARA A. DONNELLY
HUDSON COUNTY
RECEIVED
AFTER DEEDS
OFFICE (5)
Receipt No. 268

72931-E

THIS DEED, made the 12th day of July, in the year of our Lord Two Thousand Five

BETWEEN CONSOLIDATED RAIL CORPORATION, a Corporation of the Commonwealth of Pennsylvania, having an office at Two Commerce Square, 2001 Market Street, 8TH Floor, Philadelphia, Pennsylvania, 19103, hereinafter referred to as the Grantor, and 354 COLE STREET, L.L.C., a Limited Liability Company of the State of New Jersey, having a mailing address in care of Carmine R. Alampi, Esq., One University Plaza, Suite 404, Hackensack, NJ 07601, hereinafter referred to as the Grantee.

000011004
RECEIVED
AFTER DEEDS
OFFICE

WITNESSETH, that the said Grantor, for and in consideration of the sum of THREE HUNDRED THIRTY THREE THOUSAND THREE HUNDRED THIRTY THREE DOLLARS (\$333,333) lawful money of the United States of America, unto it well and truly paid by the said Grantee, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, Grantor does by these presents, remise, release and forever quitclaim unto the said Grantee, the heirs or successors and assigns of the said Grantee, all right, title and interest of the said Grantor of, in and to the Premises as more particularly described on Exhibit 'A', pages 1 of 3 through 3 of 3, appended hereto and made a part hereof.

EXCEPTING AND RESERVING, thereout and therefrom and unto the said Grantor, permanent, perpetual, exclusive, assignable and unrestricted easements and rights for any and all existing sewer, gas and water lines, poles, pipes, wires, cables, power, signal and communication lines, fiber optic lines, telecommunication lines and all their appurtenances, hereinafter referred to as "facilities", located in, on, under, over, above, beneath the surface, across or through the Premises; and together with the right to use, maintain, repair, replace, renew, rehabilitate and remove said facilities and their appurtenances.

UNDER and SUBJECT, however, to (1) whatever rights the public may have to the use of any roads, alleys, bridges or streets crossing the Premises, (2) any streams, rivers, creeks and water ways passing under, across or through the Premises, and (3) any easements or agreements of record or otherwise affecting the Premises, and to the state of facts which a personal inspection or accurate survey would disclose, and to any pipes, wires, poles, cables, culverts, drainage courses or systems and their appurtenances now existing and remaining in, on, under, over, across and through the Premises, together with the right to maintain, repair, renew, replace, use and remove same.

THIS INSTRUMENT is executed and delivered by Grantor, and is accepted by Grantee, subject to the covenants set forth below, which shall be deemed part of the consideration of this conveyance and which shall run with the land and be binding upon, and inure to the benefit of, the respective heirs, legal representatives, successors and assigns of Grantor and Grantee. Grantee hereby knowingly, willingly, and voluntarily waives the benefit of any rule, law, custom, or statute of the State of New Jersey now or hereafter in force with respect to the covenants set forth below:

TAX REFERENCE:
Block 354.1, Lot 50-A

Robert W. Ryan

THIS INSTRUMENT PREPARED BY:

Robert W. Ryan
Consolidated Rail Corporation
2001 Market Street - 8th Floor
Philadelphia, PA 19103

3
A COPY OF THIS DEED
HAS BEEN SENT TO ASSESSOR'S OFFICE

BK:07615 PG:00307

(1.) Grantor shall neither be liable or obligated to construct or maintain any fence or similar structure between the Premises and adjoining land of Grantor nor shall Grantor be liable or obligated to pay for any part of the cost or expense of constructing or maintaining any fence or similar structure, and Grantee hereby forever releases Grantor from any loss or damage, direct or consequential, that may be caused by or arise from the lack or failure to maintain any such fence or similar structure.

(2.) Grantee hereby forever releases Grantor from all liability for any loss or damage, direct or consequential, to the Premises and to any buildings or improvements now or hereafter erected thereon and to the contents thereof, which may be caused by or arise from the normal operation, maintenance, repair, or renewal of Grantor's railroad, or which may be caused by or arise from vibration resulting from the normal operation, maintenance, repair or renewal thereof.

(3.) A. Allocation of Specific Obligations to Remediate.

The parties shall, as between themselves, allocate obligations pertaining to any Remediation with respect to the Premises in accordance with this Section, without regard to considerations of fault, failure or negligence.

(i) Grantee shall be responsible after the date of this Deed for any Remediation arising from the existence or presence of any contamination in, on or about the Premises, including without limitation, any Hazardous Substances, except as specifically provided otherwise in Subsection A(ii) below.

(ii) Grantor shall be responsible for Remediation of Hazardous Substances in, on or about the Premises, provided that such Hazardous Substances: (1) resulted from a condition created by Grantor during the time the Premises was owned by Grantor; and (2) are a violation of applicable environmental laws or regulations in effect and as interpreted on the date of this Deed. Notwithstanding the aforesaid, Grantor shall not be liable for any Remediation resulting from any condition: (a) that Grantee had knowledge of or reasonable basis to suspect as of the date of this Deed; or (b) that Grantee could have discovered its presence upon the Premises by a duly diligent examination of the Premises or public records related thereto; or (c) which Grantee has failed to immediately notify Grantor of as provided for below. Grantor's liability for any Remediation for which it is otherwise responsible hereunder shall be no greater than that resulting from the condition of the Premises existing as of the date of this Deed regardless of any increase in Remediation costs or liability created by or resulting from events occurring after the date of this Deed, including the passage of time.

(iii) If at any time after the date of this Deed, any Hazardous Substances are discovered which are or may be the responsibility of Grantor to Remediate pursuant to Subsection A(ii) above, then Grantee shall immediately notify Grantor of such Hazardous Substances, and Grantor shall have the opportunity and right to investigate, determine its responsibility therefor, determine in connection with appropriate governmental or regulatory bodies the appropriate response or remedy for such Hazardous Substances and Remediate, with its own forces or contractors and at its own expense, such Hazardous Substances to the satisfaction of appropriate regulatory bodies or to the additional extent deemed appropriate by Grantor. Grantor shall only be obligated to Remediate such Hazardous Substances to the extent that would be required for the now existing or most recent use of the Premises by Grantor, regardless of the current or proposed use of the Premises by Grantee. Grantee shall grant such rights of entry or other rights to Grantor, upon reasonable terms and without compensation, as may be necessary to allow Grantor to perform the inspections, remediation or other actions necessary to comply with this Subsection. In the event of a dispute concerning Grantor's responsibility for any Remediation hereunder, the parties shall cooperate to resolve such dispute as quickly as possible, and Grantee, unless required by valid judicial or regulatory order to take immediate action to Remediate a specific condition, shall, during the resolution of such dispute, take no actions inconsistent with Grantor's right to seek a determination from the appropriate regulatory or judicial body of the remedy required by law and to Remediate the Hazardous Substances with its own forces or contractors. Grantor shall not be liable to Grantee for any damages, costs or expenses incurred as a result of such Remediation, except that if Grantee is required by valid judicial or administrative order as provided above to take immediate action to Remediate any Hazardous Substances which are or may be

to be the responsibility of Grantor pursuant to this Subsection, Grantee shall be able to recover its actual and reasonable costs from Grantor.

B. Definition of "Hazardous Substance(s)". "Hazardous Substance(s)", as used in this Deed, shall mean any material or substance that is defined or classified as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601(14)) or Section 311 of the Federal Water Pollution Control Act (33 U.S.C. §1321); a "hazardous waste" pursuant to Section 1004 or 3001 of the Resource Conservation and Recovery Act (42 U.S.C. §§6903, 6921); a toxic pollutant under Section 307(a)(1) of the Federal Water Pollution Control Act (33 U.S.C. §1317(a)(1)); a "hazardous air pollutant" under Section 112 of the Clean Air Act (42 U.S.C. §7412); or a "hazardous material" under the Hazardous Materials Transportation Uniform Safety Act of 1990 (49 U.S.C. App. §1802(4)).

C. Definition of "Remediate" and "Remediation". "Remediate" or "Remediation", as used in this Deed, shall mean, any reasonable investigation and the formulation and implementation of any remedial action, containment, cleanup, response, treatment, removal, mitigation, abatement, elimination or control of any contamination.

D. Indemnity. The party made responsible by this Section for any Remediation shall: (1) satisfy said obligations; and (2) indemnify, defend and hold the other party (and its directors, officers, employees and agents) harmless from and against any claims, liabilities, judgments, settlements, costs and expenses (including without limitation, reasonable attorneys' fees) arising out of or in connection with said Remediation.

E. Release. As a material part of the consideration to Grantor for the conveyance of the Premises, Grantee hereby expressly and irrevocably releases and forever discharges, and by these presents does, for its successors and assigns, release and forever discharge Grantor (including, without limitation, its directors, officers, employees, and agents) from any and all actions, suits, controversies, damages (compensatory, punitive or consequential), judgments, claims and demands whatsoever, in law, or in equity, which Grantee ever had, now has, or which it or its successors and assigns hereafter can, shall or may have against Grantor, arising out of or in connection with the presence of any contamination on the Premises, including without limitation, any Hazardous Substances, except to the extent Grantor fails to comply with its obligations set forth in Subsection A(ii) above, or Grantee is entitled to recover the cost of any Remediation pursuant to Subsection A(ii). Grantee shall indemnify, defend and hold Grantor harmless from and against any and all claims, liabilities, judgments, settlements, costs and expenses (including without limitation, reasonable attorneys' fees) arising out of or in connection with Grantee's prosecution of any of its legal remedies against any third party who might have concurring or joint liability for matters for which Grantee has released Grantor pursuant to this Subsection. Each party expressly waives, to the extent it lawfully may do so: (i) the benefits of any statute that would relieve it of any obligations that it has assumed under this Section, and (ii) any defense predicated on alleged misrepresentations of fact or the nondisclosure of any fact.

(4.) Should a claim adverse to the title hereby quitclaimed be asserted and/or proved, no recourse shall be had against the Grantor herein.

EXCEPTING AND RESERVING, thereout and therefrom and unto the said Grantor, permanent, perpetual, exclusive, unrestricted and assignable easements and rights for any and all existing signboards and their appurtenances located on the Premises; together with the necessary; easements and rights for any necessary electric service lines and their appurtenances needed for illuminating said signboards; and together with rights and easements to construct, use, maintain, modify, enlarge, repair, renew, replace, rehabilitate and remove said signboards; and together with the right of immediate and unimpeded ingress and egress on, over, across, and through the Premises for the purposes aforesaid; and further together with the exclusive right to sell and assign such rights and to retain any and all revenues, income, charges, considerations and fees derived therefrom.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of it, the said Grantor as well at law as in equity or otherwise howsoever of, in and to the same and every part thereof, UNDER and SUBJECT and EXCEPTING AND RESERVING as aforesaid.

TO HAVE AND TO HOLD, all and singular the said Premises, together with the appurtenances, unto the Grantee, the heirs or successors and assigns of the Grantee, forever, UNDER and SUBJECT and provided as aforesaid.

THE words "Grantor" and "Grantee" used herein shall be construed as if they read "Grantors" and "Grantees", respectively, whenever the sense of this instrument so requires and whether singular or plural, such words shall be deemed to include at all times and in all cases the heirs, legal representatives or successors and assigns of the Grantor and Grantee.

IN WITNESS WHEREOF, the Grantor has caused this Indenture to be signed in its name and behalf

BK:07615 PG:00310

EXHIBIT A

CASE NO. 72931-E

A COPY OF THIS DEED
HAS BEEN SENT TO ASSESSOR'S OFFICE

ALL THAT CERTAIN piece or parcel of land of the Grantor, together with all of the improvements thereon, being a portion of the line of railroad known as the Penn Central Harsimus Branch and identified as Line Code 1420, situate in the City of Jersey City, County of Hudson and State of New Jersey, said parcel being identified as Block 354.1, Lot 50A, and which is bounded and described in accordance with a Plat of Survey, identified as Project No. 0303332, dated December 29, 2004 and revised through February 23, 2005, prepared by Glen J. Lloyd, Professional Land Surveyor, New Jersey License No. GS37598, attached hereto and made a part hereof, as follows.

BEING a part or portion of the same premises which Fairfax Leary, as Trustee of the Property of the United New Jersey Railroad and Canal Company, Debtor, by Conveyance Document No. UNJ-CRC-RP-4, dated March 31, 1976 and recorded on October 10, 1979 in the Recorder's Office of Hudson County, New Jersey, in Liber 3286 at page 757&c.; and also Filed and Recorded in the Recorder's Office of the Secretary of State for the State of New Jersey on October 12, 1978, granted and conveyed unto Consolidated Rail Corporation.



SCHOOR DEPALMA
Engineers and Consultants

February 23, 2005

Project No. 030333202

LEGAL DESCRIPTION
LOT 50A, BLOCK 354.1
CITY OF JERSEY CITY
HUDSON COUNTY, NEW JERSEY

A COPY OF THIS DEED
 HAS BEEN SENT TO ASSESSOR'S OFFICE

A parcel of land described herein, known and designated as Lot 50A, Block 354.1, City of Jersey City, Hudson County, New Jersey, as shown on a certain map entitled, "Boundary Survey, Lot M - Block 212, Lot 50A - Block 247, Lot 50A - Block 280, Lot 50A - Block 317.5, Lot 50A - Block 354.1, Lot 50 - Block 389.1, Lot 50 - Block 415 & Lot 18A - Block 446," prepared by Schoor DePalma, dated December 29, 2004 and revised to February 23, 2005, and being more particularly described as follows:

Beginning at the point of intersection of the westerly sideline of Coles Street (60 foot wide right-of-way) and the southerly sideline of Sixth Street (60 foot wide right-of-way) and running; thence,

1. Along said westerly sideline of Coles Street, south 06 degrees 22 minutes 03 seconds west, 100.00 feet to the centerline of a 10 foot wide alley; thence,
2. Along said centerline, north 83 degrees 44 minutes 57 seconds west, 400.61 feet to the easterly sideline of Monmouth Street (60 foot wide right-of-way); thence,
3. Along said easterly sideline of Monmouth Street, north 06 degrees 22 minutes 03 seconds east, 100.00 feet to a point of intersection with the aforementioned southerly sideline of Sixth Street; thence,
4. Along said southerly sideline of Sixth Street, south 83 degrees 44 minutes 57 seconds east, 400.61 feet to the point or place of beginning.

Containing 40,061 square feet more or less / 0.920 acres of land more or less as described herein.

Subject to all existing easements, rights-of-way and reservations of record.

Glen J. Lloyd, P.L.S.
 N.J. Professional Land Surveyor
 New Jersey License No. GS37598

n:\project\2003\0303332\02\m&bs\lot 50a, block 354.1.doc

Your bottom line results partner.

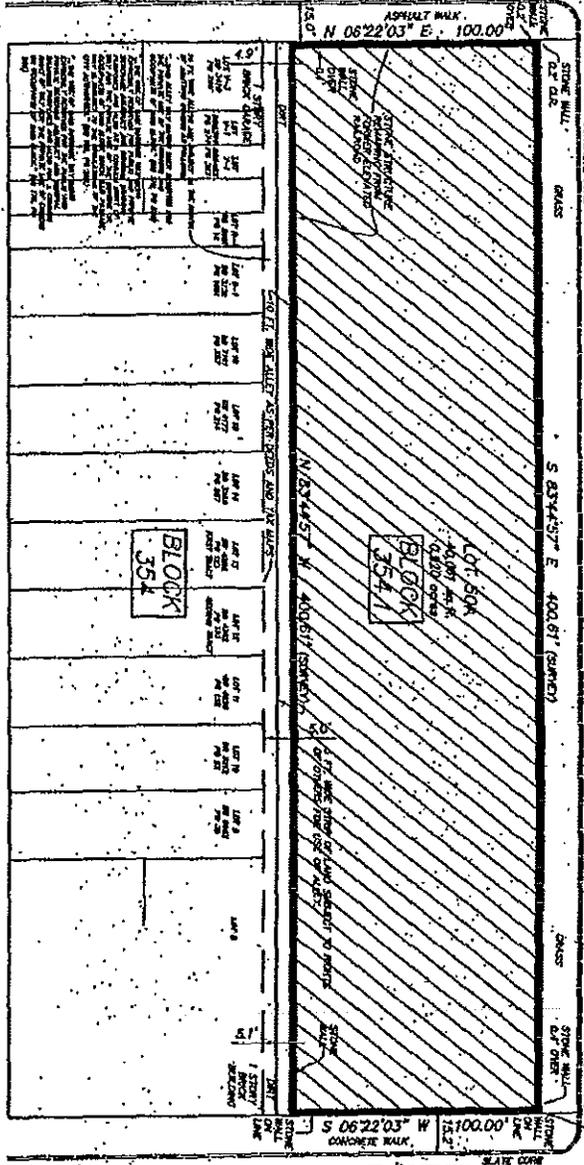
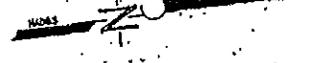
20 Waterview Boulevard, PO Box 5245, Parsippany, NJ 07054-6245 Tel: 973.299.7970 Fax: 973.334.5588
 Manalapan ■ Brick ■ Clinton ■ Egg Harbor ■ Exton ■ Falls ■ Kutztown ■ Parsippany
 Philadelphia ■ Stafford ■ White Plains

www.schoordepalma.com

PER00312

EXHIBIT "A" Page 2 of 2

MONMOUTH STREET
60 FT. WIDE RIGHT-OF-WAY



A COPY OF THIS DEED
HAS BEEN SENT TO ASSESSOR'S OFFICE

SIXTH STREET
80 FT. WIDE RIGHT-OF-WAY

COLES STREET
60 FT. WIDE RIGHT-OF-WAY

FIFTH STREET
60 FT. WIDE RIGHT-OF-WAY

EXHIBIT 'A', Page 3 of 3

NO.	DESCRIPTION	ACRES
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GLEN J. LLOYD
PROFESSIONAL LAND SURVEYOR, N.J. Lic. No. 062709

SCHOOR DEPALMA
Engineers and Consultants
774 W. 20th Street, Newark, NJ 07102
Tel: (973) 992-1100

BOUNDARY SURVEY
LOT 50-A - BLOCK 354
PROPERTY OF CONNAH CORPORATION
HUDSON COUNTY, NEW JERSEY

Case No. 72981R
File Name: 14200013B

GENERAL NOTES:
1. THIS SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT OF 1968, AS AMENDED.
2. THE SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT OF 1968, AS AMENDED.
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9. THE SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT OF 1968, AS AMENDED.
10. THE SURVEY WAS MADE BY THE SURVEYOR IN ACCORDANCE WITH THE PROVISIONS OF THE SURVEYING ACT OF 1968, AS AMENDED.

State of New Jersey

Seller's Residency Certification/Exemption

(C.55, P.L. 2004)

(Please Print or Type)

SELLER(S) INFORMATION (See Instructions, page 2):

Name(s) Consolidated Rail Corporation

Current Resident Address 405 Division Street, Suite 215

City, Town, Post Office Elizabeth State NJ Zip Code 07201

PROPERTY INFORMATION (Brief Property Description):

Block(s) 354.1 Lot(s) 50 A Qualifier _____

Street Address Cole Street and Sixth Street

City, Town, Post Office Jersey City State NJ Zip Code 07302

Seller's Percentage of Ownership 100% Consideration \$333,333.00 Closing Date 7/13/05

SELLER ASSURANCES (Check the Appropriate Box):

1. I am a resident taxpayer of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
2. The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the Federal Internal Revenue Code of 1986, 26 U.S.C. s. 121.
3. I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. Seller is not individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A.54A:1-1 et seq.
6. The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:5-1-1 et seq.
7. The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1031, 1033 or is a cemetery plot. (CIRCLE THE APPLICABLE SECTION.) If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale.

SELLER(S) DECLARATION:

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete.

July 13, 2005

Date

Robert W. Ryan, Director Real Estate

(Seller) Please indicate if Power of Attorney or Attorney in Fact

July 13, 2005

Date

Consolidated Rail Corporation

(Seller) Please indicate if Power of Attorney or Attorney in Fact

by its Director-Real Estate duly authorized thereunto and has caused its corporate seal to be hereunto affixed and attested by its Corporate Secretary, the day and year first above written.

SEALED and
DELIVERED in the
presence of us:

CONSOLIDATED RAIL CORPORATION
By:

Carol A. Putiri
CAROL A. PUTIRI

Robert W. Ryan
Robert W. Ryan
Director-Real Estate

ATTEST:

Carol A. Putiri
CAROL A. PUTIRI

Jonathan M. Broder
Jonathan M. Broder
Corporate Secretary

COMMONWEALTH OF PENNSYLVANIA)
) : SS
COUNTY OF Philadelphia)

BE IT REMEMBERED, that on this 12th day of July in the year Two Thousand Five (2005), before me, the subscriber, a Notary Public for the Commonwealth and County aforesaid, personally appeared Robert W. Ryan, Director-Real Estate of CONSOLIDATED RAIL CORPORATION, the corporate Grantor named in the within Instrument, who I am satisfied is the person who has signed the within Instrument on behalf of said Corporation; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed and delivered the same as such officer aforesaid; that the foregoing Instrument is the voluntary act and deed of said Corporation, made by virtue of authority from its Board of Directors; and that the full and actual consideration paid or to be paid for the transfer of title to realty evidenced by the within Instrument as such consideration is THREE HUNDRED THIRTY THREE THOUSAND THREE HUNDRED THIRTY THREE Dollars (\$333,333).

Jennifer A. Burtulato
Notary Public

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
JENNIFER A. BURTULATO, Notary Public
City of Philadelphia, Phila. County
My Commission Expires October 11, 2008

RECORD & RETURN TO:
ALAMPA & DEMARCO
ONE UNIVERSITY PLAZA
HACKENSACK NJ 07601

Exhibit F

000011003
RECEIVED
AND
DEPOSITED

07/18/2005 09:51A
BARBARA A. DONNELLY
HUDSON COUNTY
REGISTER OF DEEDS
Receipt No. 266082



QUITCLAIM DEED (NJ)

Case 72931-F

Consideration : \$333333.00 Exempt Code: S

Total	1976.30
1% Tax	19.76
2005)	0.00
N.P.N.R.F	275.25
Extra	337.05
State	833.42
Public	166.75
County	333.83
General	0.00

THIS DEED, made the 12th day of July, in the year of our Lord Two Thousand Five

BETWEEN CONSOLIDATED RAIL CORPORATION, a Corporation of the Commonwealth of Pennsylvania, having an office at Two Commerce Square, 2001 Market Street, 8th Floor, Philadelphia, Pennsylvania, 19103, hereinafter referred to as the Grantor, and **389 MONMOUTH STREET, L.L.C.**, a Limited Liability Company of the State of New Jersey, having a mailing address in care of Carmine R. Campi, Esq., One University Plaza, Suite 404, Hackensack, NJ 07601, hereinafter referred to as the Grantee.

WITNESSETH, that the said Grantor, for and in consideration of the sum of **THREE HUNDRED THIRTY THREE THOUSAND THREE HUNDRED THIRTY THREE DOLLARS (\$333,333)** lawful money of the United States of America, unto it well and truly paid by the said Grantee, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, Grantor does by these presents, remise, release and forever quitclaim unto the said Grantee, the heirs or successors and assigns of the said Grantee, all right, title and interest of the said Grantor of, in and to the Premises as more particularly described on Exhibit 'A', pages 1 of 3 through 3 of 3, appended hereto and made a part hereof.

EXCEPTING AND RESERVING, thereout and therefrom and unto the said Grantor, permanent, perpetual, exclusive, assignable and unrestricted easements and rights for any and all existing sewer, gas and water lines, poles, pipes, wires, cables, power, signal and communication lines, fiber optic lines, telecommunication lines and all their appurtenances, hereinafter referred to as "facilities", located in, on, under, over, above, beneath the surface, across or through the Premises; and together with the right to use, maintain, repair, replace, renew, rehabilitate and remove said facilities and their appurtenances.

UNDER and SUBJECT, however, to (1) whatever rights the public may have to the use of any roads, alleys, bridges or streets crossing the Premises, (2) any streams, rivers, creeks and water ways passing under, across or through the Premises, and (3) any easements or agreements of record or otherwise affecting the Premises, and to the state of facts which a personal inspection or accurate survey would disclose, and to any pipes, wires, poles, cables, culverts, drainage courses or systems and their appurtenances now existing and remaining in, on, under, over, across and through the Premises, together with the right to maintain, repair, renew, replace, use and remove same.

THIS INSTRUMENT is executed and delivered by Grantor, and is accepted by Grantee, subject to the covenants set forth below, which shall be deemed part of the consideration of this conveyance and which shall run with the land and be binding upon, and inure to the benefit of, the respective heirs, legal representatives, successors and assigns of Grantor and Grantee. Grantee hereby knowingly, willingly, and voluntarily waives the benefit of any rule, law, custom, or statute of the State of New Jersey now or hereafter in force with respect to the covenants set forth below:

TAX REFERENCE:
Block 389.1 Lot 50

THIS INSTRUMENT PREPARED BY:

Robert W. Ryan
Consolidated Rail Corporation
2001 Market Street - 8th Floor
Philadelphia, PA 19103

A COPY OF THIS DEED
HAS BEEN SENT TO ABBEY'S OFFICE

BK:07615 PG:00298

(1.) Grantor shall neither be liable or obligated to construct or maintain any fence or similar structure between the Premises and adjoining land of Grantor nor shall Grantor be liable or obligated to pay for any part of the cost or expense of constructing or maintaining any fence or similar structure, and Grantee hereby forever releases Grantor from any loss or damage, direct or consequential, that may be caused by or arise from the lack or failure to maintain any such fence or similar structure.

(2.) Grantee hereby forever releases Grantor from all liability for any loss or damage, direct or consequential, to the Premises and to any buildings or improvements now or hereafter erected thereon and to the contents thereof, which may be caused by or arise from the normal operation, maintenance, repair, or renewal of Grantor's railroad, or which may be caused by or arise from vibration resulting from the normal operation, maintenance, repair or renewal thereof.

(3.) A. Allocation of Specific Obligations to Remediate.

The parties shall, as between themselves, allocate obligations pertaining to any Remediation with respect to the Premises in accordance with this Section, without regard to considerations of fault, failure or negligence.

(i) Grantee shall be responsible after the date of this Deed for any Remediation arising from the existence or presence of any contamination in, on or about the Premises, including without limitation, any Hazardous Substances, except as specifically provided otherwise in Subsection A(ii) below.

(ii) Grantor shall be responsible for Remediation of Hazardous Substances in, on or about the Premises, provided that such Hazardous Substances: (1) resulted from a condition created by Grantor during the time the Premises was owned by Grantor; and (2) are a violation of applicable environmental laws or regulations in effect and as interpreted on the date of this Deed. Notwithstanding the aforesaid, Grantor shall not be liable for any Remediation resulting from any condition: (a) that Grantee had knowledge of or reasonable basis to suspect as of the date of this Deed; or (b) that Grantee could have discovered its presence upon the Premises by a duly diligent examination of the Premises or public records related thereto; or (c) which Grantee has failed to immediately notify Grantor of as provided for below. Grantor's liability for any Remediation for which it is otherwise responsible hereunder shall be no greater than that resulting from the condition of the Premises existing as of the date of this Deed regardless of any increase in Remediation costs or liability created by or resulting from events occurring after the date of this Deed, including the passage of time.

(iii) If at any time after the date of this Deed, any Hazardous Substances are discovered which are or may be the responsibility of Grantor to Remediate pursuant to Subsection A(ii) above, then Grantee shall immediately notify Grantor of such Hazardous Substances, and Grantor shall have the opportunity and right to investigate, determine its responsibility therefor, determine in connection with appropriate governmental or regulatory bodies the appropriate response or remedy for such Hazardous Substances and Remediate, with its own forces or contractors and at its own expense, such Hazardous Substances to the satisfaction of appropriate regulatory bodies or to the additional extent deemed appropriate by Grantor. Grantor shall only be obligated to Remediate such Hazardous Substances to the extent that would be required for the now existing or most recent use of the Premises by Grantor, regardless of the current or proposed use of the Premises by Grantee. Grantee shall grant such rights of entry or other rights to Grantor, upon reasonable terms and without compensation, as may be necessary to allow Grantor to perform the inspections, remediation or other actions necessary to comply with this Subsection. In the event of a dispute concerning Grantor's responsibility for any Remediation hereunder, the parties shall cooperate to resolve such dispute as quickly as possible, and Grantee, unless required by valid judicial or regulatory order to take immediate action to Remediate a specific condition, shall, during the resolution of such dispute, take no actions inconsistent with Grantor's right to seek a determination from the appropriate regulatory or judicial body of the remedy required by law and to Remediate the Hazardous Substances with its own forces or contractors. Grantor shall not be liable to Grantee for any damages, costs or expenses incurred as a result of such Remediation, except that if Grantee is required by valid judicial or administrative order as provided

above to take immediate action to Remediate any Hazardous Substances which are later determined to be the responsibility of Grantor pursuant to this Subsection, Grantee shall be able to recover its actual and reasonable costs from Grantor.

B. Definition of "Hazardous Substance(s)". "Hazardous Substance(s)", as used in this Deed, shall mean any material or substance that is defined or classified as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601(14)) or Section 311 of the Federal Water Pollution Control Act (33 U.S.C. §1321); a "hazardous waste" pursuant to Section 1004 or 3001 of the Resource Conservation and Recovery Act (42 U.S.C. §§6903, 6921); a toxic pollutant under Section 307(a)(1) of the Federal Water Pollution Control Act (33 U.S.C. §1317(a)(1)); a "hazardous air pollutant" under Section 112 of the Clean Air Act (42 U.S.C. §7412); or a "hazardous material" under the Hazardous Materials Transportation Uniform Safety Act of 1990 (49 U.S.C. App. §1802(4)).

C. Definition of "Remediate" and "Remediation". "Remediate" or "Remediation", as used in this Deed, shall mean, any reasonable investigation and the formulation and implementation of any remedial action, containment, cleanup, response, treatment, removal, mitigation, abatement, elimination or control of any contamination.

D. Indemnity. The party made responsible by this Section for any Remediation shall: (1) satisfy said obligations; and (2) indemnify, defend and hold the other party (and its directors, officers, employees and agents) harmless from and against any claims, liabilities, judgments, settlements, costs and expenses (including without limitation, reasonable attorneys' fees) arising out of or in connection with said Remediation.

E. Release. As a material part of the consideration to Grantor for the conveyance of the Premises, Grantee hereby expressly and irrevocably releases and forever discharges, and by these presents does, for its successors and assigns, release and forever discharge Grantor (including, without limitation, its directors, officers, employees, and agents) from any and all actions, suits, controversies, damages (compensatory, punitive or consequential), judgments, claims and demands whatsoever, in law, or in equity, which Grantee ever had, now has, or which it or its successors and assigns hereafter can, shall or may have against Grantor, arising out of or in connection with the presence of any contamination on the Premises, including without limitation, any Hazardous Substances, except to the extent Grantor fails to comply with its obligations set forth in Subsection A(ii) above, or Grantee is entitled to recover the cost of any Remediation pursuant to Subsection A(ii). Grantee shall indemnify, defend and hold Grantor harmless from and against any and all claims, liabilities, judgments, settlements, costs and expenses (including without limitation, reasonable attorneys' fees) arising out of or in connection with Grantee's prosecution of any of its legal remedies against any third party who might have concurring or joint liability for matters for which Grantee has released Grantor pursuant to this Subsection. Each party expressly waives, to the extent it lawfully may do so: (i) the benefits of any statute that would relieve it of any obligations that it has assumed under this Section, and (ii) any defense predicated on alleged misrepresentations of fact or the nondisclosure of any fact.

(4.) Should a claim adverse to the title hereby quitclaimed be asserted and/or proved, no recourse shall be had against the Grantor herein.

EXCEPTING AND RESERVING, thereout and therefrom and unto the said Grantor, permanent, perpetual, exclusive, unrestricted and assignable easements and rights for any and all existing signboards and their appurtenances located on the Premises; together with the necessary; easements and rights for any necessary electric service lines and their appurtenances needed for illuminating said signboards; and together with rights and easements to construct, use, maintain, modify, enlarge, repair, renew, replace, rehabilitate and remove said signboards; and together with the right of immediate and unimpeded ingress and egress on, over, across, and through the Premises for

BK:07615 PG:00300

the purposes aforesaid; and further together with the exclusive right to sell and assign such rights and to retain any and all revenues, income, charges, considerations and fees derived therefrom.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of it, the said Grantor as well at law as in equity or otherwise howsoever of, in and to the same and every part thereof, UNDER and SUBJECT and EXCEPTING AND RESERVING as aforesaid.

TO HAVE AND TO HOLD, all and singular the said Premises, together with the appurtenances, unto the Grantee, the heirs or successors and assigns of the Grantee, forever, UNDER and SUBJECT and provided as aforesaid.

THE words "Grantor" and "Grantee" used herein shall be construed as if they read "Grantors" and "Grantees", respectively, whenever the sense of this instrument so requires and whether singular or plural, such words shall be deemed to include at all times and in all cases the heirs, legal representatives or successors and assigns of the Grantor and Grantee.

IN WITNESS WHEREOF, the Grantor has caused this Indenture to be signed in its name and behalf

BK:07615 PG:00301

EXHIBIT A

CASE NO. 72931-F

ALL THAT CERTAIN piece or parcel of land of the Grantor, together with all of the improvements thereon, being a portion of the line of railroad known as the Penn Central Harsimus Branch and identified as Line Code 1420, situate in the City of Jersey City, County of Hudson and State of New Jersey, said parcel being identified as Block 389.1, Lot 50, and which is bounded and described in accordance with a Plat of Survey, identified as Project No. 0303332, dated December 29, 2004 and revised through February 23, 2005, prepared by Glen J. Lloyd, Professional Land Surveyor, New Jersey License No. GS37598, attached hereto and made a part hereof, as follows.

BEING a part or portion of the same premises which Fairfax Leary, as Trustee of the Property of the United New Jersey Railroad and Canal Company, Debtor, by Conveyance Document No. UNJ-CRC-RP-4, dated March 31, 1976 and recorded on October 10, 1979 in the Recorder's Office of Hudson County, New Jersey, in Liber 3286 at page 757&c.; and also Filed and Recorded in the Recorder's Office of the Secretary of State for the State of New Jersey on October 12, 1978, granted and conveyed unto Consolidated Rail Corporation.

A COPY OF THIS DEED
HAS BEEN SENT TO ASSESSOR'S OFFICE



SCHOOR DEPALMA
Engineers and Consultants

February 23, 2005

Project No. 030333202

LEGAL DESCRIPTION
LOT 50, BLOCK 389.1
CITY OF JERSEY CITY
HUDSON COUNTY, NEW JERSEY

A COPY OF THIS DEED
HAS BEEN SENT TO ASSESSOR'S OFFICE

A parcel of land described herein, known and designated as Lot 50, Block 389.1, City of Jersey City, Hudson County, New Jersey, as shown on a certain map entitled, "Boundary Survey, Lot M - Block 212, Lot 50A - Block 247, Lot 50A - Block 280, Lot 50A - Block 317.5, Lot 50A - Block 354.1, Lot 50 - Block 389.1, Lot 50 - Block 415 & Lot 18A - Block 446," prepared by Schoor DePalma, dated December 29, 2004 and revised to February 23, 2005, and being more particularly described as follows:

Beginning at the point of intersection of the westerly sideline of Monmouth Street (60 foot wide right-of-way) and the southerly sideline of Sixth Street (60 foot wide right-of-way) and running; thence,

1. Along said westerly sideline of Monmouth Street, south 06 degrees 22 minutes 03 seconds west, 100.00 feet to the centerline of a 10 foot wide alley; thence,
2. Along said centerline, north 83 degrees 44 minutes 57 seconds west, 400.81 feet to the easterly sideline of Brunswick Street (60 foot wide right-of-way); thence,
3. Along said easterly sideline, north 06 degrees 22 minutes 03 seconds east, 100.00 feet to a point of intersection with the aforementioned southerly sideline of Sixth Street; thence,
4. Along said southerly sideline of Sixth Street, south 83 degrees 44 minutes 57 seconds east, 400.81 feet to the point or place of beginning.

Containing 40,081 square feet more or less / 0.920 acres of land more or less as described herein.

Subject to all existing easements, rights-of-way and reservations of record.


Glen J. Lloyd, P.L.S.
N.J. Professional Land Surveyor
New Jersey License No. GS37598

n:\project\2003\0303332\02\m&bs\lot 50, block 389.1.doc

Your bottom line results partner. *

20 Waterview Boulevard, PO Box 5245, Parsippany, NJ 07054-6245 Tel: 973.299.7970 Fax: 973.334.5688
Manalapan ■ Brick ■ Clinton ■ Egg Harbor ■ **0303** ■ Fair ■ Gloucester ■ Parsippany ■
Philadelphia ■ Stafford ■ Voorhees ■ White Plains
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EXHIBIT "A", Page 2 of 3.

State of New Jersey

Seller's Residency Certification/Exemption

(C.55, P.L. 2004)

(Please Print or Type)

SELLER(S) INFORMATION (See Instructions, page 2):

Name(s) Consolidated Rail Corporation

Current Resident Address 405 Division Street, Suite 215

City, Town, Post Office Elizabeth

State NJ Zip Code 07201

PROPERTY INFORMATION (Brief Property Description):

Block(s) 389.1

Lot(s) 50 & 51

Qualifier _____

Street Address Monmouth Street and Sixth Street

City, Town, Post Office Jersey City

State NJ Zip Code 07302

Seller's Percentage of Ownership 100%

Consideration \$333,333.00

Closing Date 7/13/05

SELLER ASSURANCES (Check the Appropriate Box):

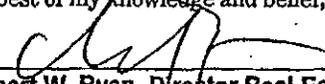
1. I am a resident taxpayer of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
2. The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the Federal Internal Revenue Code of 1986, 26 U.S.C. s. 121.
3. I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. Seller is not individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A. 54A:1-1 et seq.
6. The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:5-1-1 et seq.
7. The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1081, 1083 or is a cemetery plot. (CIRCLE THE APPLICABLE SECTION.) If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale.

SELLER(S) DECLARATION:

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete.

July 13, 2005

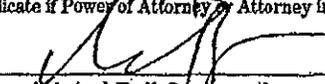
Date


Signature **Robert W. Ryan, Director Real Estate**

(Seller) Please indicate if Power of Attorney or Attorney in Fact

July 13, 2005

Date

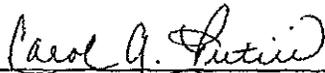

Signature **Consolidated Rail Corporation**

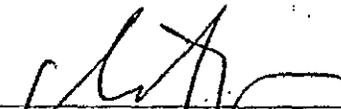
(Seller) Please indicate if Power of Attorney or Attorney in Fact

by its Director-Real Estate duly authorized thereunto and has caused its corporate seal to be hereunto affixed and attested by its Corporate Secretary, the day and year first above written.

SEALED and
DELIVERED in the
presence of us:

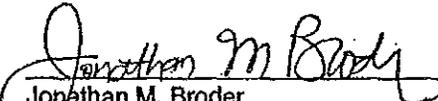
CONSOLIDATED RAIL CORPORATION
By:


CAROL A. POTIRI


Robert W. Ryan
Director-Real Estate

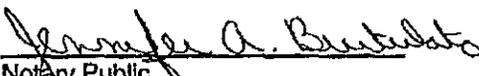
ATTEST:


CAROL A. POTIRI


Jonathan M. Broder
Corporate Secretary

COMMONWEALTH OF PENNSYLVANIA)
) : SS
COUNTY OF Philadelphia)

BE IT REMEMBERED, that on this 12th day of July in the year Two Thousand Five (2005), before me, the subscriber, a Notary Public for the Commonwealth and County aforesaid, personally appeared Robert W. Ryan, Director-Real Estate of CONSOLIDATED RAIL CORPORATION, the corporate Grantor named in the within Instrument, who I am satisfied is the person who has signed the within Instrument on behalf of said Corporation; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed and delivered the same as such officer aforesaid; that the foregoing Instrument is the voluntary act and deed of said Corporation, made by virtue of authority from its Board of Directors; and that the full and actual consideration paid or to be paid for the transfer of title to realty evidenced by the within Instrument as such consideration is THREE HUNDRED THIRTY THREE THOUSAND THREE HUNDRED THIRTY THREE Dollars (\$333,333).


Notary Public

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
JENNIFER A. BURTULATO, Notary Public
City of Philadelphia, Phila. County
My Commission Expires October 11, 2008

RECORD & RETURN TO:
ALAMI & DEMARRAS
ONE UNIVERSITY PLAZA
HACKENSACK NJ 07601

BK=07615 PG=00306

Exhibit G

Consideration : \$500000.00 Exempt Code: S

County	State	N.P.N.R.F.	Total
500.50	1249.50	525.00	4175.00
General	Public	Extra	1% Tax
900.00	250.00	750.00	0.00

QUITCLAIM DEED (NJ)

07/18/2005 09:50A
BARBARA A. DONNELLY
HUDSON COUNTY
REGISTER OF DEEDS
RECEIVED
AND
RECORDED
DEE
000011002

Case 72931-G

THIS DEED, made the 12th day of July, in the year of our Lord Two Thousand Five (2005),

BETWEEN CONSOLIDATED RAIL CORPORATION, a Corporation of the Commonwealth of Pennsylvania, having an office at Two Commerce Square, 2001 Market Street, 8TH Floor, Philadelphia, Pennsylvania, 19103, hereinafter referred to as the Grantor, and **415 BRUNSWICK STREET, L.L.C.**, a Limited Liability Company of the State of New Jersey, having a mailing address in care of Carmine R. Alampi, Esq., One University Plaza, Suite 404, Hackensack, NJ 07601, hereinafter referred to as the Grantee.

WITNESSETH, that the said Grantor, for and in consideration of the sum of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) lawful money of the United States of America, unto it well and truly paid by the said Grantee, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, Grantor does by these presents, remise, release and forever quitclaim unto the said Grantee, the heirs or successors and assigns of the said Grantee, all right, title and interest of the said Grantor of, in and to the Premises as more particularly described on Exhibit 'A', pages 1 of 4 through 4 of 4, appended hereto and made a part hereof.

EXCEPTING AND RESERVING, thereout and therefrom and unto the said Grantor, permanent, perpetual, exclusive, assignable and unrestricted easements and rights for any and all existing sewer, gas and water lines, poles, pipes, wires, cables, power, signal and communication lines, fiber optic lines, telecommunication lines and all their appurtenances, hereinafter referred to as "facilities", located in, on, under, over, above, beneath the surface, across or through the Premises; and together with the right to use, maintain, repair, replace, renew, rehabilitate and remove said facilities and their appurtenances.

UNDER and SUBJECT, however, to (1) whatever rights the public may have to the use of any roads, alleys, bridges or streets crossing the Premises, (2) any streams, rivers, creeks and water ways passing under, across or through the Premises, and (3) any easements or agreements of record or otherwise affecting the Premises, and to the state of facts which a personal inspection or accurate survey would disclose, and to any pipes, wires, poles, cables, culverts, drainage courses or systems and their appurtenances now existing and remaining in, on, under, over, across and through the Premises, together with the right to maintain, repair, renew, replace, use and remove same.

THIS INSTRUMENT is executed and delivered by Grantor, and is accepted by Grantee, subject to the covenants set forth below, which shall be deemed part of the consideration of this conveyance and which shall run with the land and be binding upon, and inure to the benefit of, the respective heirs, legal representatives, successors and assigns of Grantor and Grantee. Grantee hereby knowingly, willingly, and voluntarily waives the benefit of any rule, law, custom, or statute of the State of New Jersey now or hereafter in force with respect to the covenants set forth below:

TAX REFERENCE:
Block 415, Lot 50

W. Ryan
THIS INSTRUMENT PREPARED BY:
Robert W. Ryan
Consolidated Rail Corporation
2001 Market Street - 8th Floor
Philadelphia, PA 19103

3
A COPY OF THIS DEED
HAS BEEN SENT TO ASSESSOR'S OFFICE

(1.) Grantor shall neither be liable or obligated to construct or maintain any fence or similar structure between the Premises and adjoining land of Grantor nor shall Grantor be liable or obligated to pay for any part of the cost or expense of constructing or maintaining any fence or similar structure, and Grantee hereby forever releases Grantor from any loss or damage, direct or consequential, that may be caused by or arise from the lack or failure to maintain any such fence or similar structure.

(2.) Grantee hereby forever releases Grantor from all liability for any loss or damage, direct or consequential, to the Premises and to any buildings or improvements now or hereafter erected thereon and to the contents thereof, which may be caused by or arise from the normal operation, maintenance, repair, or renewal of Grantor's railroad, or which may be caused by or arise from vibration resulting from the normal operation, maintenance, repair or renewal thereof.

(3.) A. Allocation of Specific Obligations to Remediate.

The parties shall, as between themselves, allocate obligations pertaining to any Remediation with respect to the Premises in accordance with this Section, without regard to considerations of fault, failure or negligence.

(i) Grantee shall be responsible after the date of this Deed for any Remediation arising from the existence or presence of any contamination in, on or about the Premises, including without limitation, any Hazardous Substances, except as specifically provided otherwise in Subsection A(ii) below.

(ii) Grantor shall be responsible for Remediation of Hazardous Substances in, on or about the Premises, provided that such Hazardous Substances: (1) resulted from a condition created by Grantor during the time the Premises was owned by Grantor; and (2) are a violation of applicable environmental laws or regulations in effect and as interpreted on the date of this Deed. Notwithstanding the aforesaid, Grantor shall not be liable for any Remediation resulting from any condition: (a) that Grantee had knowledge of or reasonable basis to suspect as of the date of this Deed; or (b) that Grantee could have discovered its presence upon the Premises by a duly diligent examination of the Premises or public records related thereto; or (c) which Grantee has failed to immediately notify Grantor of as provided for below. Grantor's liability for any Remediation for which it is otherwise responsible hereunder shall be no greater than that resulting from the condition of the Premises existing as of the date of this Deed regardless of any increase in Remediation costs or liability created by or resulting from events occurring after the date of this Deed, including the passage of time.

(iii) If at any time after the date of this Deed, any Hazardous Substances are discovered which are or may be the responsibility of Grantor to Remediate pursuant to Subsection A(ii) above, then Grantee shall immediately notify Grantor of such Hazardous Substances, and Grantor shall have the opportunity and right to investigate, determine its responsibility therefor, determine in connection with appropriate governmental or regulatory bodies the appropriate response or remedy for such Hazardous Substances and Remediate, with its own forces or contractors and at its own expense, such Hazardous Substances to the satisfaction of appropriate regulatory bodies or to the additional extent deemed appropriate by Grantor. Grantor shall only be obligated to Remediate such Hazardous Substances to the extent that would be required for the now existing or most recent use of the Premises by Grantor, regardless of the current or proposed use of the Premises by Grantee. Grantee shall grant such rights of entry or other rights to Grantor, upon reasonable terms and without compensation, as may be necessary to allow Grantor to perform the inspections, remediation or other actions necessary to comply with this Subsection. In the event of a dispute concerning Grantor's responsibility for any Remediation hereunder, the parties shall cooperate to resolve such dispute as quickly as possible, and Grantee, unless required by valid judicial or regulatory order to take immediate action to Remediate a specific condition, shall, during the resolution of such dispute, take no actions inconsistent with Grantor's right to seek a determination from the appropriate regulatory or judicial body of the remedy required by law and to Remediate the Hazardous Substances with its own forces or contractors. Grantor shall not be liable to Grantee for any damages, costs or expenses incurred as a result of such Remediation, except that if Grantee is required by valid judicial or administrative order as provided above to take immediate action to Remediate any Hazardous Substances which are later determined

BK=07615 PG=00290

to be the responsibility of Grantor pursuant to this Subsection, Grantee shall be able to recover its actual and reasonable costs from Grantor.

B. Definition of "Hazardous Substance(s)". "Hazardous Substance(s)", as used in this Deed, shall mean any material or substance that is defined or classified as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601(14)) or Section 311 of the Federal Water Pollution Control Act (33 U.S.C. §1321); a "hazardous waste" pursuant to Section 1004 or 3001 of the Resource Conservation and Recovery Act (42 U.S.C. §§6903, 6921); a toxic pollutant under Section 307(a)(1) of the Federal Water Pollution Control Act (33 U.S.C. §1317(a)(1)); a "hazardous air pollutant" under Section 112 of the Clean Air Act (42 U.S.C. §7412); or a "hazardous material" under the Hazardous Materials Transportation Uniform Safety Act of 1990 (49 U.S.C. App. §1802(4)).

C. Definition of "Remediate" and "Remediation". "Remediate" or "Remediation", as used in this Deed, shall mean, any reasonable investigation and the formulation and implementation of any remedial action, containment, cleanup, response, treatment, removal, mitigation, abatement, elimination or control of any contamination.

D. Indemnity. The party made responsible by this Section for any Remediation shall: (1) satisfy said obligations; and (2) indemnify, defend and hold the other party (and its directors, officers, employees and agents) harmless from and against any claims, liabilities, judgments, settlements, costs and expenses (including without limitation, reasonable attorneys' fees) arising out of or in connection with said Remediation.

E. Release. As a material part of the consideration to Grantor for the conveyance of the Premises, Grantee hereby expressly and irrevocably releases and forever discharges, and by these presents does, for its successors and assigns, release and forever discharge Grantor (including, without limitation, its directors, officers, employees, and agents) from any and all actions, suits, controversies, damages (compensatory, punitive or consequential), judgments, claims and demands whatsoever, in law, or in equity, which Grantee ever had, now has, or which it or its successors and assigns hereafter can, shall or may have against Grantor, arising out of or in connection with the presence of any contamination on the Premises, including without limitation, any Hazardous Substances, except to the extent Grantor fails to comply with its obligations set forth in Subsection A(ii) above, or Grantee is entitled to recover the cost of any Remediation pursuant to Subsection A(ii). Grantee shall indemnify, defend and hold Grantor harmless from and against any and all claims, liabilities, judgments, settlements, costs and expenses (including without limitation, reasonable attorneys' fees) arising out of or in connection with Grantee's prosecution of any of its legal remedies against any third party who might have concurring or joint liability for matters for which Grantee has released Grantor pursuant to this Subsection. Each party expressly waives, to the extent it lawfully may do so: (i) the benefits of any statute that would relieve it of any obligations that it has assumed under this Section, and (ii) any defense predicated on alleged misrepresentations of fact or the nondisclosure of any fact.

(4.) Should a claim adverse to the title hereby quitclaimed be asserted and/or proved, no recourse shall be had against the Grantor herein.

EXCEPTING AND RESERVING, thereout and therefrom and unto the said Grantor, permanent, perpetual, exclusive, unrestricted and assignable easements and rights for any and all existing signboards and their appurtenances located on the Premises; together with the necessary; easements and rights for any necessary electric service lines and their appurtenances needed for illuminating said signboards; and together with rights and easements to construct, use, maintain, modify, enlarge, repair, renew, replace, rehabilitate and remove said signboards; and together with the right of immediate and unimpeded ingress and egress on, over, across, and through the Premises for the purposes aforesaid; and further together with the exclusive right to sell and assign such rights and to retain any and all revenues, income, charges, considerations and fees derived therefrom

BK-07815 PG-00291

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of it, the said Grantor as well at law as in equity or otherwise howsoever of, in and to the same and every part thereof, UNDER and SUBJECT and EXCEPTING AND RESERVING as aforesaid.

TO HAVE AND TO HOLD, all and singular the said Premises, together with the appurtenances, unto the Grantee, the heirs or successors and assigns of the Grantee, forever, UNDER and SUBJECT and provided as aforesaid.

THE words "Grantor" and "Grantee" used herein shall be construed as if they read "Grantors" and "Grantees", respectively, whenever the sense of this instrument so requires and whether singular or plural, such words shall be deemed to include at all times and in all cases the heirs, legal representatives or successors and assigns of the Grantor and Grantee.

IN WITNESS WHEREOF, the Grantor has caused this Indenture to be signed in its name and behalf

EXHIBIT A

CASE NO. 72931-G

A COPY OF THIS DEED
HAS BEEN SENT TO ASSESSOR'S OFFICE

ALL THAT CERTAIN piece or parcel of land of the Grantor, together with all of the improvements thereon, being a portion of the line of railroad known as the Penn Central Harsimus Branch and identified as Line Code 1420, situate in the City of Jersey City, County of Hudson and State of New Jersey, said parcel being identified as Block 415, Lot 50, and which is bounded and described in accordance with a Plat of Survey, identified as Project No. 0303332, dated December 29, 2004 and revised through February 23, 2005, prepared by Glen J. Lloyd, Professional Land Surveyor, New Jersey License No. GS37598, attached hereto and made a part hereof, as follows.

BEING a part or portion of the same premises which Fairfax Leary, as Trustee of the Property of the United New Jersey Railroad and Canal Company, Debtor, by Conveyance Document No. UNJ-CRC-RP-4, dated March 31, 1976 and recorded on October 10, 1979 in the Recorder's Office of Hudson County, New Jersey, in Liber 3286 at page 757&c.; and also Filed and Recorded in the Recorder's Office of the Secretary of State for the State of New Jersey on October 12, 1978, granted and conveyed unto Consolidated Rail Corporation.



SCHOOR DEPALMA
Engineers and Consultants

February 23, 2005

Project No. 030333202

A COPY OF THIS DEED
HAS BEEN SENT TO ASSESSOR'S OFFICE

LEGAL DESCRIPTION
LOT 50, BLOCK 415
CITY OF JERSEY CITY
HUDSON COUNTY, NEW JERSEY

A parcel of land described herein, known and designated as Lot 50, Block 415, City of Jersey City, Hudson County, New Jersey, as shown on a certain map entitled, "Boundary Survey, Lot M - Block 212, Lot 50A - Block 247, Lot 50A - Block 280, Lot 50A - Block 317.5, Lot 50A - Block 354.1, Lot 50 - Block 389.1, Lot 50 - Block 415 & Lot 18A - Block 446," prepared by Schoor DePalma, dated December 29, 2004 and revised to February 23, 2005, and being more particularly described as follows:

Beginning at a point in the westerly sideline of Brunswick Street (60 foot wide right-of-way), distant south 06 degrees 22 minutes 03 seconds west, 26.00 feet along said sideline from its intersection with the southerly sideline of Sixth Street (60 foot wide right-of-way) and running; thence,

1. Along said westerly sideline of Brunswick Street, south 06 degrees 22 minutes 03 seconds west, 74.00 feet; thence,
2. North 83 degrees 44 minutes 57 seconds west, 386.55 feet to a point in the northeasterly sideline of Newark Avenue (66 foot wide right-of-way); thence,
3. Along said northeasterly sideline, north 39 degrees 51 minutes 08 seconds west, 18.62 feet to a point of intersection with the easterly sideline of Division Street (60 foot wide right-of-way); thence,
4. Along said easterly sideline, north 06 degrees 22 minutes 03 seconds east, 30.59 feet; thence,

Along a description of land recorded in the Hudson County Clerk's Office in Deed Book 3471, Page 423, known and designated as Tax Map Lot 51, Block 415 the following three courses;

5. South 83 degrees 44 minutes 57 seconds east, 229.00 feet; thence,
6. North 06 degrees 22 minutes 03 seconds east, 30.50 feet; thence,
7. South 83 degrees 44 minutes 57 seconds east, 171.00 feet to the point or place of beginning.

BK=07615 PG=00294

Your bottom line results partner. •

20 WaterView Boulevard, PO Box 5245, Parsippany, NJ 07054-6245 Tel: 973.299.7970 Fax: 973.334.5588
Mandalay ■ Brick ■ Clinton ■ Egg Harbor ■ Exton ■ Falls ■ Kulpville ■ Parsippany
Philadelphia ■ Stafford ■ Voorhees ■ White Plains
www.schoordepalma.com

EXHIBIT "A", Page 2 of 4



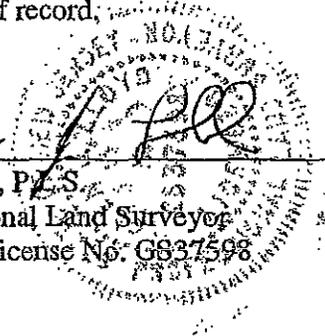
Project No. 030333202
February 23, 2005
Page 2

Containing 22,529 square feet more or less / 0.517 acres of land more or less as described herein.

Subject to all existing easements, rights-of-way and reservations of record.



Glen J. Lloyd, P.L.S.
N.J. Professional Land Surveyor
New Jersey License No. G837598



n:\project\2003\0303332\02\m&hslot 50, block 415.doc

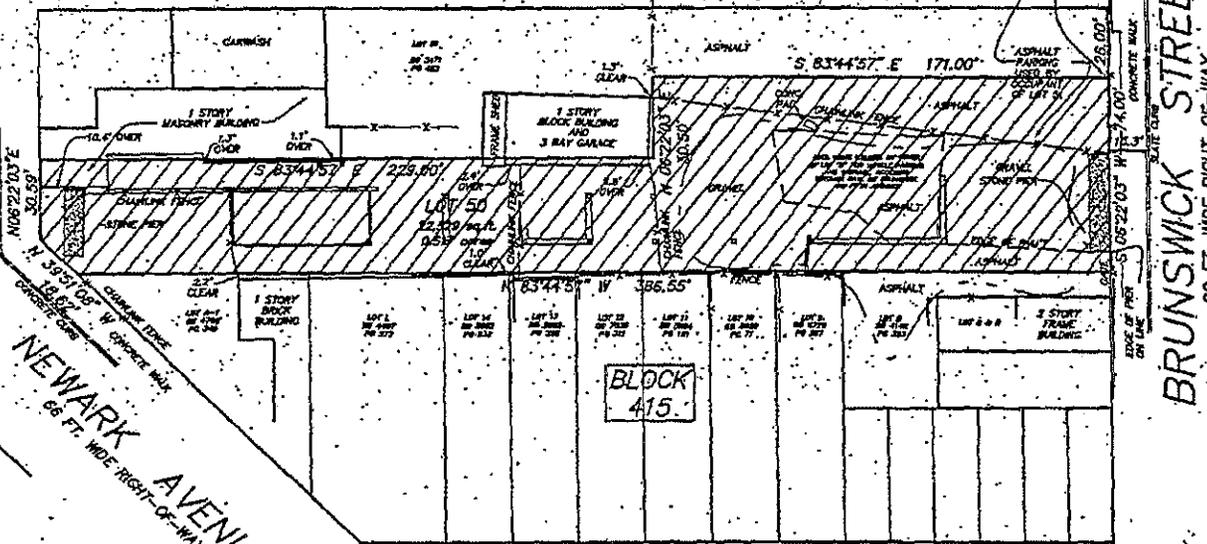
BK:07615 PG:00295

EXHIBIT "A", Page 3 of 4

JUL 15 10 45 AM 1979
 DEPT. OF TREASURY, NJ DEPT. OF TAX
 REVENUE, STATE HOUSE BLDG. 2ND FL.

DIVISION STREET
 60 FT. WIDE RIGHT-OF-WAY

SIXTH STREET
 60 FT. WIDE RIGHT-OF-WAY



NEWARK AVENUE
 60 FT. WIDE RIGHT-OF-WAY

FIFTH STREET
 60 FT. WIDE RIGHT-OF-WAY



- REFERENCES:**
1. DEED RECORDED IN THE HUDSON COUNTY CLERK'S OFFICE IN DEED BOOK 3282, PAGE 307 WITH DESCRIPTION RECORDED IN DEED BOOK 3282, PAGE 371.
 2. MAP ENTITLED "INDEMENTS TO BE GRANTED BY CONSUMERS RAIL CORPORATION TO NEW JERSEY DEPARTMENT OF TRANSPORTATION" AND NEW JERSEY DEPARTMENT OF TRANSPORTATION, HUDSON COUNTY, FROM SECOND STREET TO MAYOR AVENUE, PARCELS 63A, 63B, 63C & 63D, CITY OF JERSEY CITY, COUNTY OF HUDSON, BEING 17' - 0\"/>

- NOTES:**
1. THIS SURVEY IS PREPARED FOR THE PURPOSES OF THE TITLE AND THE SURVEYOR'S LIABILITY SHALL BE LIMITED TO THE ACCURACY OF THE SURVEY DATA PROVIDED BY THE CLIENT.
 2. SURVEY IS DONE FROM DATA AS PROVIDED AND WITHOUT ANY WARRANTY AS TO ACCURACY OR COMPLETENESS OF THE DATA.
 3. SURVEY IS BASED ON THE DATA AS PROVIDED BY THE CLIENT.
 4. THE SURVEYOR IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THE DATA PROVIDED BY THE CLIENT.
 5. THE SURVEYOR IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THE DATA PROVIDED BY THE CLIENT.
 6. THE SURVEYOR IS NOT RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THE DATA PROVIDED BY THE CLIENT.

I HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR LICENSED TO PRACTICE IN THE STATE OF NEW JERSEY, AND THAT THIS PLAN IS BASED ON AN ACTUAL FIELD SURVEY PERFORMED UNDER MY IMMEDIATE SUPERVISION. I FURTHER DECLARE TO THE BEST OF MY PROFESSIONAL KNOWLEDGE AND BELIEF, THAT THIS PLAN IS A CORRECT AND ACCURATE REPRESENTATION OF CONDITIONS EXISTING AS OF THE DATE HEREON.

CERTIFICATIONS:
 418 BRUNSWICK STREET, LLC,
 CHARLES R. ALAM, ENG.
 MOVED FILE INC.
 CHASCO TITLE INSURANCE COMPANY

EXHIBIT "A", Page 4 of 4

Case No. 72931G
 FILENAME: 14200013B

DATE	BY	REVISION

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Glen J. Lloyd
GLEN J. LLOYD
 PROFESSIONAL LAND SURVEYOR, N.J. LIC. No. 0537689

SCHOOR DEPALMA
 Engineers and Consultants
 Cert. of Authorization 246A276R2600
 20 WATERVIEW BOULEVARD
 P.O. BOX 8248 PARSIPPANY, NJ 07054
 TEL. (973)264-7870 FAX (973)334-6386
 HANNAH • WHITE PLAINS • DOE HAMOR • SPICK • CLAYTON • BUCHANAN • KURNIAWATI
 PARSIPPANY • PHILADELPHIA • PHILADELPHIA • STAFFORD • YORNBURG

BOUNDARY SURVEY
LOT 50 - BLOCK 415
 PROPERTY OF CONRAL CORPORATION
 JERSEY CITY, HUDSON COUNTY, NEW JERSEY

PROJECT NO.	05333332
SCALE	1" = 30'
DATE	12/29/04
DRAWN BY	G.J.L.
CHECKED BY	
SHEET NO.	1 of 1

000111

BK: 07615 PG: 00296

State of New Jersey

Seller's Residency Certification/Exemption

(C.55, P.L. 2004)

(Please Print or Type)

SELLER(S) INFORMATION (See Instructions, page 2):

Name(s) Consolidated Rail Corporation

Current Resident Address 405 Division Street, Suite 215

City, Town, Post Office Elizabeth State NJ Zip Code 07201

PROPERTY INFORMATION (Brief Property Description):

Block(s) 415 Lot(s) 50 Qualifier _____

Street Address Brunswick Street and Sixth Street

City, Town, Post Office Jersey City State NJ Zip Code 07302

Seller's Percentage of Ownership 100% Consideration \$500,000.00 Closing Date 7/13/05

SELLER ASSURANCES (Check the Appropriate Box):

- 1. I am a resident taxpayer of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
- 2. The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the Federal Internal Revenue Code of 1986, 26 U.S.C. s. 121.
- 3. I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
- 4. Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
- 5. Seller is not individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A. 54A:1-1 et seq.
- 6. The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:5-1-1 et seq.
- 7. The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1031, 1033 or is a cemetery plot. (CIRCLE THE APPLICABLE SECTION.) If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale.

SELLER(S) DECLARATION:

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete.

July 13, 2005
Date

Signature Robert W. Ryan, Director Real Estate
(Seller) Please indicate if Power of Attorney or Attorney in Fact

July 13, 2005
Date

Signature Consolidated Rail Corporation
(Seller) Please indicate if Power of Attorney or Attorney in Fact

by its Director-Real Estate duly authorized thereunto and has caused its corporate seal to be hereunto affixed and attested by its Corporate Secretary, the day and year first above written.

SEALED and
DELIVERED in the
presence of us:

CONSOLIDATED RAIL CORPORATION
By:

Carol A. Putiri
CAROL A. PUTIRI

Robert W. Ryan
Robert W. Ryan
Director-Real Estate

ATTEST:

Carol A. Putiri
CAROL A. PUTIRI

Jonathan M. Broder
Jonathan M. Broder
Corporate Secretary

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF Philadelphia) : SS

BE IT REMEMBERED, that on this 10th day of July in the year Two Thousand Five (2005), before me, the subscriber, a Notary Public for the Commonwealth and County aforesaid, personally appeared Robert W. Ryan, Director-Real Estate of CONSOLIDATED RAIL CORPORATION, the corporate Grantor named in the within Instrument, who I am satisfied is the person who has signed the within Instrument on behalf of said Corporation; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed and delivered the same as such officer aforesaid; that the foregoing Instrument is the voluntary act and deed of said Corporation, made by virtue of authority from its Board of Directors; and that the full and actual consideration paid or to be paid for the transfer of title to realty evidenced by the within Instrument as such consideration is FIVE HUNDRED THOUSAND Dollars (\$500,000).

Jennifer A. Burtulato
Notary Public

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
JENNIFER A. BURTULATO, Notary Public
City of Philadelphia, Phila. County
My Commission Expires October 11, 2008

RECORD & RETURN TO:
ALAMP I E DEMARADIS
ONE UNIVERSITY PLAZA
HACKENSACK NJ 07601

BK:07615 PG:00297 - 01

Exhibit H

A COPY OF THIS DEED
HAS BEEN DEPOSITED IN THE COUNTY'S OFFICE

Consideration : \$500000.00 Exempt Code: 6

County	State	H.P.N.R.F	Total
500.50	1249.50	525.00	4175.00
General	Public	Extra	1% Tax
900.00	250.00	750.00	0.00

QUITCLAIM DEED (NJ)

07/18/2005 09:44A
BARBARA A. DONNELLY
HUDSON COUNTY
REGISTER OF DEEDS
RECEIVED
000011001
RECORDED
AND
DEE

Case 72931-H

THIS DEED, made the 12th day of July, in the year of our Lord Two Thousand Five

(2005),
BETWEEN CONSOLIDATED RAIL CORPORATION, a Corporation of the Commonwealth of Pennsylvania, having an office at Two Commerce Square, 2001 Market Street, 8TH Floor, Philadelphia, Pennsylvania, 19103, hereinafter referred to as the Grantor, and **446 NEWARK AVENUE, L.L.C.**, a Limited Liability Company of the State of New Jersey, having a mailing address in care of Carmine R. Alampi, Esq., One University Plaza, Suite 404, Hackensack, NJ 07601, hereinafter referred to as the Grantee.

WITNESSETH, that the said Grantor, for and in consideration of the sum of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) lawful money of the United States of America, unto it well and truly paid by the said Grantee, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, Grantor does by these presents, remise, release and forever quitclaim unto the said Grantee, the heirs or successors and assigns of the said Grantee, all right, title and interest of the said Grantor of, in and to the Premises as more particularly described on Exhibit 'A', pages 1 of 3 through 3 of 3, appended hereto and made a part hereof.

EXCEPTING AND RESERVING, thereout and therefrom and unto the said Grantor, permanent, perpetual, exclusive, assignable and unrestricted easements and rights for any and all existing sewer, gas and water lines, poles, pipes, wires, cables, power, signal and communication lines, fiber optic lines, telecommunication lines and all their appurtenances, hereinafter referred to as "facilities", located in, on, under, over, above, beneath the surface, across or through the Premises; and together with the right to use, maintain, repair, replace, renew, rehabilitate and remove said facilities and their appurtenances; and further together with the right of unimpeded ingress and egress in, on, over, across and through the Premises for the aforesaid purposes, as well as for access to Grantor's remaining property west of Block 446, Lot 18A from Newark Avenue.

UNDER and SUBJECT, however, to (1) whatever rights the public may have to the use of any roads, alleys, bridges or streets crossing the Premises, (2) any streams, rivers, creeks and water ways passing under, across or through the Premises, and (3) any easements or agreements of record or otherwise affecting the Premises, and to the state of facts which a personal inspection or accurate survey would disclose, and to any pipes, wires, poles, cables, culverts, drainage courses or systems and their appurtenances now existing and remaining in, on, under, over, across and through the Premises, together with the right to maintain, repair, renew, replace, use and remove same.

THIS INSTRUMENT is executed and delivered by Grantor, and is accepted by Grantee, subject to the covenants set forth below, which shall be deemed part of the consideration of this conveyance and which shall run with the land and be binding upon, and inure to the benefit of, the respective heirs, legal representatives, successors and assigns of Grantor and Grantee. Grantee hereby knowingly, willingly, and voluntarily waives the benefit of any rule, law, custom, or statute of the State of New Jersey now or hereafter in force with respect to the covenants set forth below:

TAX REFERENCE:
Block 446, Lot 18A

Robert W. Ryan
THIS INSTRUMENT PREPARED BY:
Robert W. Ryan
Consolidated Rail Corporation
2001 Market Street - 8th Floor
Philadelphia, PA 19103

BK:07615 PG:00280

(1.) Grantor shall neither be liable or obligated to construct or maintain any fence or similar structure between the Premises and adjoining land of Grantor nor shall Grantor be liable or obligated to pay for any part of the cost or expense of constructing or maintaining any fence or similar structure, and Grantee hereby forever releases Grantor from any loss or damage, direct or consequential, that may be caused by or arise from the lack or failure to maintain any such fence or similar structure.

(2.) Grantee hereby forever releases Grantor from all liability for any loss or damage, direct or consequential, to the Premises and to any buildings or improvements now or hereafter erected thereon and to the contents thereof, which may be caused by or arise from the normal operation, maintenance, repair, or renewal of Grantor's railroad, or which may be caused by or arise from vibration resulting from the normal operation, maintenance, repair or renewal thereof.

(3.) A. Allocation of Specific Obligations to Remediate.

The parties shall, as between themselves, allocate obligations pertaining to any Remediation with respect to the Premises in accordance with this Section, without regard to considerations of fault, failure or negligence.

(i) Grantee shall be responsible after the date of this Deed for any Remediation arising from the existence or presence of any contamination in, on or about the Premises, including without limitation, any Hazardous Substances, except as specifically provided otherwise in Subsection A(ii) below.

(ii) Grantor shall be responsible for Remediation of Hazardous Substances in, on or about the Premises, provided that such Hazardous Substances: (1) resulted from a condition created by Grantor during the time the Premises was owned by Grantor; and (2) are a violation of applicable environmental laws or regulations in effect and as interpreted on the date of this Deed. Notwithstanding the aforesaid, Grantor shall not be liable for any Remediation resulting from any condition: (a) that Grantee had knowledge of or reasonable basis to suspect as of the date of this Deed; or (b) that Grantee could have discovered its presence upon the Premises by a duly diligent examination of the Premises or public records related thereto; or (c) which Grantee has failed to immediately notify Grantor of as provided for below. Grantor's liability for any Remediation for which it is otherwise responsible hereunder shall be no greater than that resulting from the condition of the Premises existing as of the date of this Deed regardless of any increase in Remediation costs or liability created by or resulting from events occurring after the date of this Deed, including the passage of time.

(iii) If at any time after the date of this Deed, any Hazardous Substances are discovered which are or may be the responsibility of Grantor to Remediate pursuant to Subsection A(ii) above, then Grantee shall immediately notify Grantor of such Hazardous Substances, and Grantor shall have the opportunity and right to investigate, determine its responsibility therefor, determine in connection with appropriate governmental or regulatory bodies the appropriate response or remedy for such Hazardous Substances and Remediate, with its own forces or contractors and at its own expense, such Hazardous Substances to the satisfaction of appropriate regulatory bodies or to the additional extent deemed appropriate by Grantor. Grantor shall only be obligated to Remediate such Hazardous Substances to the extent that would be required for the now existing or most recent use of the Premises by Grantor, regardless of the current or proposed use of the Premises by Grantee. Grantee shall grant such rights of entry or other rights to Grantor, upon reasonable terms and without compensation, as may be necessary to allow Grantor to perform the inspections, remediation or other actions necessary to comply with this Subsection. In the event of a dispute concerning Grantor's responsibility for any Remediation hereunder, the parties shall cooperate to resolve such dispute as quickly as possible, and Grantee, unless required by valid judicial or regulatory order to take immediate action to Remediate a specific condition, shall, during the resolution of such dispute, take no actions inconsistent with Grantor's right to seek a determination from the appropriate regulatory or judicial body of the remedy required by law and to Remediate the Hazardous Substances with its own forces or contractors. Grantor shall not be liable to Grantee for any damages, costs or expenses incurred as a result of such Remediation, except that if Grantee is required by valid judicial or administrative order as provided

above to take immediate action to Remediate any Hazardous Substances which are later determined to be the responsibility of Grantor pursuant to this Subsection, Grantee shall be able to recover its actual and reasonable costs from Grantor.

B. Definition of "Hazardous Substance(s)". "Hazardous Substance(s)", as used in this Deed, shall mean any material or substance that is defined or classified as a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601(14)) or Section 311 of the Federal Water Pollution Control Act (33 U.S.C. §1321); a "hazardous waste" pursuant to Section 1004 or 3001 of the Resource Conservation and Recovery Act (42 U.S.C. §§6903, 6921); a toxic pollutant under Section 307(a)(1) of the Federal Water Pollution Control Act (33 U.S.C. §1317(a)(1)); a "hazardous air pollutant" under Section 112 of the Clean Air Act (42 U.S.C. §7412); or a "hazardous material" under the Hazardous Materials Transportation Uniform Safety Act of 1990 (49 U.S.C. App. §1802(4)).

C. Definition of "Remediate" and "Remediation". "Remediate" or "Remediation", as used in this Deed, shall mean, any reasonable investigation and the formulation and implementation of any remedial action, containment, cleanup, response, treatment, removal, mitigation, abatement, elimination or control of any contamination.

D. Indemnity. The party made responsible by this Section for any Remediation shall: (1) satisfy said obligations; and (2) indemnify, defend and hold the other party (and its directors, officers, employees and agents) harmless from and against any claims, liabilities, judgments, settlements, costs and expenses (including without limitation, reasonable attorneys' fees) arising out of or in connection with said Remediation.

E. Release. As a material part of the consideration to Grantor for the conveyance of the Premises, Grantee hereby expressly and irrevocably releases and forever discharges, and by these presents does, for its successors and assigns, release and forever discharge Grantor (including, without limitation, its directors, officers, employees, and agents) from any and all actions, suits, controversies, damages (compensatory, punitive or consequential), judgments, claims and demands whatsoever, in law, or in equity, which Grantee ever had, now has, or which it or its successors and assigns hereafter can, shall or may have against Grantor, arising out of or in connection with the presence of any contamination on the Premises, including without limitation, any Hazardous Substances, except to the extent Grantor fails to comply with its obligations set forth in Subsection A(ii) above, or Grantee is entitled to recover the cost of any Remediation pursuant to Subsection A(ii). Grantee shall indemnify, defend and hold Grantor harmless from and against any and all claims, liabilities, judgments, settlements, costs and expenses (including without limitation, reasonable attorneys' fees) arising out of or in connection with Grantee's prosecution of any of its legal remedies against any third party who might have concurring or joint liability for matters for which Grantee has released Grantor pursuant to this Subsection. Each party expressly waives, to the extent it lawfully may do so: (i) the benefits of any statute that would relieve it of any obligations that it has assumed under this Section, and (ii) any defense predicated on alleged misrepresentations of fact or the nondisclosure of any fact.

(4.) Should a claim adverse to the title hereby quitclaimed be asserted and/or proved, no recourse shall be had against the Grantor herein.

EXCEPTING AND RESERVING, thereout and therefrom and unto the said Grantor, permanent, perpetual, exclusive, unrestricted and assignable easements and rights for any and all existing signboards and their appurtenances located on the Premises; together with the necessary; easements and rights for any necessary electric service lines and their appurtenances needed for illuminating said signboards; and together with rights and easements to construct, use, maintain, modify, enlarge, repair, renew, replace, rehabilitate and remove said signboards; and together with the right of immediate and unimpeded ingress and egress on, over, across, and through the Premises for

the purposes aforesaid; and further together with the exclusive right to sell and assign such rights and to retain any and all revenues, income, charges, considerations and fees derived therefrom.

TOGETHER with all and singular the tenements, hereditaments and appurtenances thereunto belonging, or in any wise appertaining and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of it, the said Grantor as well at law as in equity or otherwise howsoever of, in and to the same and every part thereof, UNDER and SUBJECT and EXCEPTING AND RESERVING as aforesaid.

TO HAVE AND TO HOLD, all and singular the said Premises, together with the appurtenances, unto the Grantee, the heirs or successors and assigns of the Grantee, forever, UNDER and SUBJECT and provided as aforesaid.

THE words "Grantor" and "Grantee" used herein shall be construed as if they read "Grantors" and "Grantees", respectively, whenever the sense of this instrument so requires and whether singular or plural, such words shall be deemed to include at all times and in all cases the heirs, legal representatives or successors and assigns of the Grantor and Grantee.

IN WITNESS WHEREOF, the Grantor has caused this Indenture to be signed in its name and behalf

EXHIBIT A

CASE NO. 72931-H

**A COPY OF THIS DEED
HAS BEEN SENT TO ASSESSOR'S OFFICE**

ALL THAT CERTAIN piece or parcel of land of the Grantor, together with all of the improvements thereon, being a portion of the line of railroad known as the Penn Central Harsimus Branch and identified as Line Code 1420, situate in the City of Jersey City, County of Hudson and State of New Jersey, said parcel being identified as Block 446, Lot 18A, which is bounded and described in accordance with a Plat of Survey, identified as Project No. 0303332, dated December 29, 2004 and revised through February 23, 2005, prepared by Glen J. Lloyd, Professional Land Surveyor, New Jersey License No. GS37598, attached hereto and made a part hereof, as follows.

BEING a part or portion of the same premises which Fairfax Leary, as Trustee of the Property of the United New Jersey Railroad and Canal Company, Debtor, by Conveyance Document No. UNJ-CRC-RP-4, dated March 31, 1976 and recorded on October 10, 1979 in the Recorder's Office of Hudson County, New Jersey, in Liber 3286 at page 757&c.; and also Filed and Recorded in the Recorder's Office of the Secretary of State for the State of New Jersey on October 12, 1978, granted and conveyed unto Consolidated Rail Corporation.



SCHOOR DEPALMA
 Engineers and Consultants

February 23, 2005

Project No. 030333202

LEGAL DESCRIPTION
LOT 18A, BLOCK 446
CITY OF JERSEY CITY
HUDSON COUNTY, NEW JERSEY

A COPY OF THIS
 HAS BEEN SENT TO ASSESSOR'S OFFICE

A parcel of land described herein, known and designated as Lot 18A, Block 446, City of Jersey City, Hudson County, New Jersey, as shown on a certain map entitled, "Boundary Survey, Lot M - Block 212, Lot 50A - Block 247, Lot 50A - Block 280, Lot 50A - Block 317.5, Lot 50A - Block 354.1, Lot 50 - Block 389.1, Lot 50 - Block 415 & Lot 18A - Block 446," prepared by Schoor DePalma, dated December 29, 2004 and revised to February 23, 2005, and being more particularly described as follows:

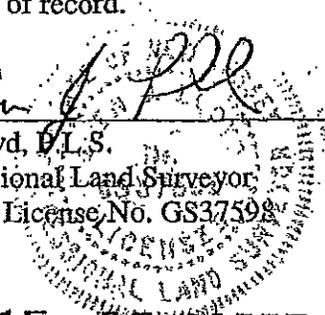
Beginning at a point in the southwesterly sideline of Newark Avenue (66 foot wide right-of-way), said point being the most southeasterly corner of a description of land recorded in the Hudson County Clerk's Office in Deed Book 7052, Page 106, said land being known and designated as Tax Map Lot 18B, and running; thence,

1. Along the southwesterly sideline of Newark Avenue, south 39 degrees 51 minutes 08 seconds east, 67.80 feet; thence,
2. North 83 degrees 44 minutes 57 seconds west, 418.37 feet; thence,
3. North 06 degrees 12 minutes 18 seconds east, 58.25 feet to a point of non-tangent curvature in the most southerly line of the aforementioned Lot 18B; thence,
4. Along said Lot 18B and along a non-tangent curve to the left having a radius of 2782.42 feet, a central angle of 07 degrees 37 minutes 09 seconds, an arc length of 370.00 feet and a chord bearing and distance of south 82 degrees 00 minutes 27 seconds east, 369.73 feet to the point or place of beginning.

Containing 19,081 square feet more or less / 0.438 acres of land more or less as described herein.

Subject to all existing easements, rights-of-way and reservations of record.


 Glen J. Lloyd, D.L.S.
 N.J. Professional Land Surveyor
 New Jersey License No. GS37598



n:\project\2003\030333202\m&h\lot 18a.doc

BK:07615 PG:00285

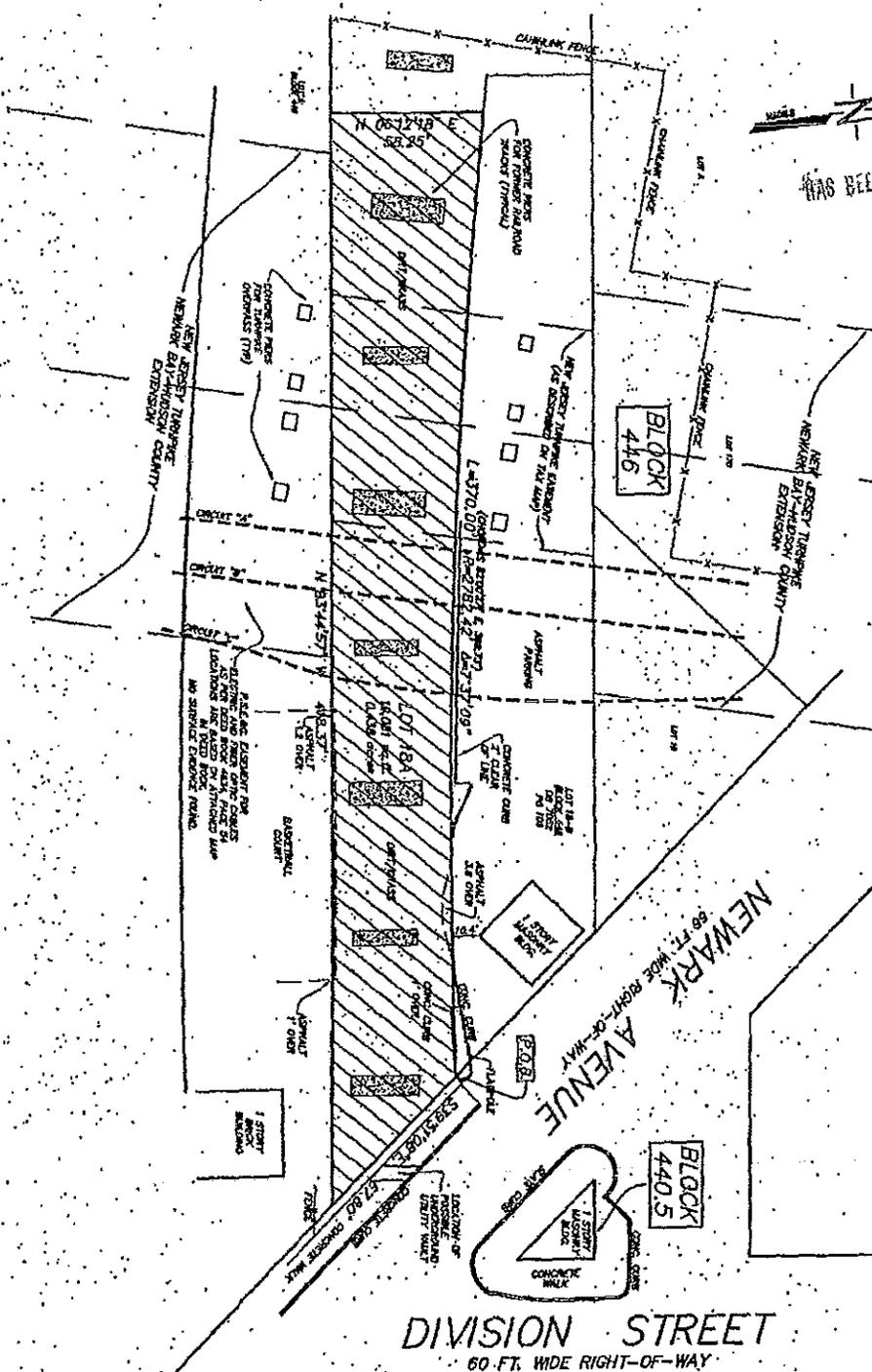
Your bottom line results partner.

20 Waterview Boulevard, PO Box 5245, Parsippany, NJ 07054-6245 Tel: 973.299.7970 Fax: 973.334.5588
 Manalapan ■ Brick ■ Clinton ■ Egg Harbor ■ Exton ■ Falls ■ Kulpsville ■ Parsippany
 Philadelphia ■ Stafford ■ Voorhees ■ White Plains

www.schoordepalma.com

EXHIBIT "A", Page 2 of 3

DEED
HAS BEEN SENT TO ASSESSOR'S OFFICE



DIVISION STREET
60 FT. WIDE RIGHT-OF-WAY

NEWARK AVENUE
80 FT. WIDE RIGHT-OF-WAY

EXHIBIT "A", Page 3 of 3

Case No. 72931H
FILENAME: 14200015B

<p>THE WORK AND THE INSTRUMENT ARE THE PROPERTY OF THE ENGINEER AND CONSULTANT. THE INSTRUMENT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE ENGINEER AND CONSULTANT.</p>	
<p>PROFESSIONAL LAND SURVEYOR, P.L.L.C. No. 0027304</p>	<p>GLEN J. LILOYD</p>
<p>SCHOOB DEPALMA Engineers and Consultants ONE OF NEW JERSEY'S LEADING SURVEYING FIRMS 781 WYCKOFF AVENUE, SUITE 200 NEWARK, NEW JERSEY 07102-3000 TEL: 973-261-7700 FAX: 973-261-7701 WWW.SCHOOBDEPALMA.COM</p>	<p>BOUNDARY SURVEY LOT 18-A - BLOCK 448 PROPERTY OF DONALD CORPORATION MADISON COUNTY, NEW JERSEY</p>
<p>DATE: 11/15/14</p>	<p>SCALE: 1" = 30'</p>
<p>BY: [Signature]</p>	<p>DATE: 11/15/14</p>

REFERENCES:
1. LOTS 18-A AND 18-B, BLOCK 448, MADISON COUNTY, NEW JERSEY, AS SHOWN ON THE PLAT OF LOTS 18-A AND 18-B, BLOCK 448, MADISON COUNTY, NEW JERSEY, DATED 11/15/14, AND RECORDED IN THE PUBLIC RECORDS OF MADISON COUNTY, NEW JERSEY, AT 0027304.

2. LOTS 18-A AND 18-B, BLOCK 448, MADISON COUNTY, NEW JERSEY, AS SHOWN ON THE PLAT OF LOTS 18-A AND 18-B, BLOCK 448, MADISON COUNTY, NEW JERSEY, DATED 11/15/14, AND RECORDED IN THE PUBLIC RECORDS OF MADISON COUNTY, NEW JERSEY, AT 0027304.

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4. LOTS 18-A AND 18-B, BLOCK 448, MADISON COUNTY, NEW JERSEY, AS SHOWN ON THE PLAT OF LOTS 18-A AND 18-B, BLOCK 448, MADISON COUNTY, NEW JERSEY, DATED 11/15/14, AND RECORDED IN THE PUBLIC RECORDS OF MADISON COUNTY, NEW JERSEY, AT 0027304.

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State of New Jersey

Seller's Residency Certification/Exemption

(C.55, P.L. 2004)

(Please Print or Type)

SELLER(S) INFORMATION (See Instructions, page 2):

Name(s) Consolidated Rail Corporation

Current Resident Address 405 Division Street, Suite 215

City, Town, Post Office Elizabeth State NJ Zip Code 07201

PROPERTY INFORMATION (Brief Property Description):

Block(s) 446 Lot(s) 18 A Qualifier _____

Street Address Newark Avenue and Sixth Street

City, Town, Post Office Jersey City State NJ Zip Code 07302

Seller's Percentage of Ownership 100% Consideration \$500,000.00 Closing Date 7/13/05

SELLER ASSURANCES (Check the Appropriate Box):

1. I am a resident taxpayer of the State of New Jersey pursuant to N.J.S.A. 54A:1-1 et seq. and will file a resident gross income tax return and pay any applicable taxes on any gain or income from the disposition of this property.
2. The real property being sold or transferred is used exclusively as my principal residence within the meaning of section 121 of the Federal Internal Revenue Code of 1986, 26 U.S.C. s. 121.
3. I am a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in a transfer in lieu of foreclosure with no additional consideration.
4. Seller, transferor or transferee is an agency or authority of the United States of America, an agency or authority of the State of New Jersey, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company.
5. Seller is not individual, estate or trust and as such not required to make an estimated payment pursuant to N.J.S.A.54A:1-1 et seq.
6. The total consideration for the property is \$1,000 or less and as such, the seller is not required to make an estimated payment pursuant to N.J.S.A. 54A:5-1-1 et seq.
7. The gain from the sale will not be recognized for Federal income tax purposes under I.R.C. Section 721, 1031, 1033 or is a cemetery plot. (CIRCLE THE APPLICABLE SECTION.) If such section does not ultimately apply to this transaction, the seller acknowledges the obligation to file a New Jersey income tax return for the year of the sale.

SELLER(S) DECLARATION:

The undersigned understands that this declaration and its contents may be disclosed or provided to the New Jersey Division of Taxation and that any false statement contained herein could be punished by fine, imprisonment, or both. I furthermore declare that I have examined this declaration and, to the best of my knowledge and belief, it is true, correct and complete.

July 13, 2005

Date

Robert W. Ryan, Director Real Estate

(Seller) Please indicate if Power of Attorney or Attorney in Fact

July 13, 2005

Date

Consolidated Rail Corporation

(Seller) Please indicate if Power of Attorney or Attorney in Fact

by its Director-Real Estate duly authorized thereunto and has caused its corporate seal to be hereunto affixed and attested by its Corporate Secretary, the day and year first above written.

SEALED and
DELIVERED in the
presence of us:

CONSOLIDATED RAIL CORPORATION
By:

Carol A. Putiri
CAROL A. PUTIRI

Robert W. Ryan
Robert W. Ryan
Director-Real Estate

ATTEST:

Carol A. Putiri
CAROL A. PUTIRI

Jonathan M. Broder
Jonathan M. Broder
Corporate Secretary

COMMONWEALTH OF PENNSYLVANIA)
) : SS
COUNTY OF Philadelphia)

BE IT REMEMBERED, that on this 10th day of July in the year Two Thousand Five (2005), before me, the subscriber, a Notary Public for the Commonwealth and County aforesaid, personally appeared Robert W. Ryan, Director-Real Estate of CONSOLIDATED RAIL CORPORATION, the corporate Grantor named in the within Instrument, who I am satisfied is the person who has signed the within Instrument on behalf of said Corporation; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed and delivered the same as such officer aforesaid; that the foregoing Instrument is the voluntary act and deed of said Corporation, made by virtue of authority from its Board of Directors; and that the full and actual consideration paid or to be paid for the transfer of title to realty evidenced by the within Instrument as such consideration is FIVE HUNDRED THOUSAND Dollars (\$500,000).

Jennifer A. Burtulato
Notary Public

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
JENNIFER A. BURTULATO, Notary Public
City of Philadelphia, Phila. County
My Commission Expires October 11, 2008

RECORD & RETURN TO
ALAMI & DEMARRAIS
ONE UNIVERSITY PLAZA
HACKENSACK NJ 07601

BK:07615 PG:00288

EXHIBIT F

Exhibit F

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Deed, Fairfax Leary as Trustee for United New Jersey railroad and Canal Company, to Conrail ,
recorded October 12, 1978 (excerpted)

Hudson

DEED

FILED AND RECORDED
OCT 12 1978
DONALD LAN
SECRETARY OF STATE

THIS DEED IS MADE BY AND BETWEEN

FAIRFAX LEARY,

AS TRUSTEE OF THE PROPERTY OF

THE UNITED NEW JERSEY RAILROAD AND CANAL COMPANY, DEBTOR

("Grantor"), whose address is 1404 Mt. Pleasant Road,
Villanova, Pennsylvania 19085

AND

CONSOLIDATED RAIL CORPORATION,

a corporation organized and existing under the laws of the
Commonwealth of Pennsylvania ("Grantee"), whose address is 1818 Market Street,
Philadelphia, Pennsylvania 19103.

UNLOCATED

WHEREAS, the Debtor is a railroad in reorganization under Section 77 of the Federal Bankruptcy Act, 11 U.S.C. Sec. 205, and is a railroad in reorganization as that term is defined in the Regional Rail Reorganization Act of 1973 (Public Law 93-236, 87 Stat. 985), as amended ("Act"); and

WHEREAS, by orders of the United States District Court for the Eastern District of Pennsylvania entered in Docket No. 70-347-A the above-named individual was duly appointed and is now serving as Trustee of the property of the Debtor; and

WHEREAS, the United States Railway Association, pursuant to Section 209 (c) of the Act, has certified to the Special United States District Court established pursuant to Section 209 (b) of the Act ("Special Court"), that the rail properties of the Debtor hereinafter described (except those hereinafter reserved and excepted) are to be transferred by the Grantor to the Grantee; and

WHEREAS, pursuant to Section 303 (b) (1) of the Act, the Special Court has ordered the Grantor to convey to the Grantee all of the Grantor's right, title and interest in such rail properties, free and clear of any liens or encumbrances as provided in Section 303 (b) of the Act;

NOW, THEREFORE, pursuant to the Order of the Special Court, the Grantor hereby grants and conveys to the Grantee:

A. All of the Grantor's right, title and interest, legal and equitable, in and to the real property located in the

County of Hudson, State of New Jersey

as described in Exhibit A attached to this Deed as a part hereof, together with all of the appurtenances, hereditaments, franchises, ways, waters, minerals, rights, privileges, improvements, fixtures, licenses, leaseholds, reversions, easements, rights under operating, trackage and joint facility agreements, rents, issues, profits and other interests and items belonging to or in any way appertaining to such real property, including but not limited to all real property items that would properly be recorded in Accounts 1 through 45 and 90 of the Property Accounts prescribed by the Interstate Commerce Commission for Railroad Companies in its Uniform System of Accounts, 49 C.F.R. Part 1201, to the extent that such interests and items belong or in any way appertain to such real property, except as those interests and items belong or appertain to the real property hereinafter reserved and excepted.

B. 1. The easements and rights to use, operate, maintain, repair, renew, replace and remove on, under, over and across the real property hereinafter reserved and excepted ("Grantor's Burdened Property"), any and all lines, poles, pipes, appliances, equipment, structures, facilities and appurtenances (each an "Easement Item") existing on and used or useful as of the date of delivery of this Deed as a part of any railroad communication, signal or interlocker system or as a part of any electric, telephone, telegraph, water, gas, steam, sanitary sewer, storm sewer or other utility system, together with the easement of reasonable access over the Grantor's Burdened Property to permit the exercise of the foregoing easements and rights, and the easement for lateral support of the real property conveyed by this Deed.

2. The easements and rights for the specific uses, if any, (each an "Easement Item") particularly described in Exhibit B attached to this Deed as a part hereof and burdening certain real property hereinafter reserved and excepted.

3. The Grantee shall give the Grantor reasonable notice before entering on the Grantor's Burdened Property to exercise the easements and rights conveyed in this Paragraph B, and shall exercise such easements and rights (a) so as not to interfere unreasonably with the use and enjoyment of the Grantor's Burdened Property, (b) in compliance with generally applicable reasonable requirements established from time to time by the Grantor and (c) so as not to increase materially the burden on the Grantor's Burdened Property existing on the date of delivery of this Deed. The Grantee shall indemnify and save the Grantor harmless from any loss, damage or expense arising from the exercise of the foregoing easements and rights, without regard to negligence on the part of the Grantor or the Grantee. Upon request of and at the expense of the Grantor, the Grantee shall execute and deliver to the Grantor a deed or other instrument releasing the Grantee's rights in any part of the Grantor's Burdened Property that is not used or reasonably needed by the Grantee in the exercise of the easements and rights conveyed in this Paragraph B.

4. If the location of any Easement Item would interfere with any proposed use or sale of any part of the Grantor's Burdened Property, the Grantor may, at the Grantor's expense and after obtaining the Grantee's written consent, relocate the interfering Easement Item or cause the same to be relocated. Such consent will be granted unless (a) the Easement Item cannot be relocated as proposed by the Grantor without unreasonable interference to the Grantee's operations or without damage to the integrity of the system of which the Easement Item is a part or (b) the Grantee will not have reasonable access to the relocated Easement Item. If the Grantee has previously released its easements and rights in any real property as provided in Paragraph B. 3. and a relocated Easement Item falls, in whole or in part, within the area that has been so released, the Grantor and the Grantee shall exchange the following instruments promptly after the relocation is completed:

(a) The Grantor shall execute and deliver to the Grantee a supplementary deed of easement which conveys to the Grantee with respect to the relocated Easement Item the easements and rights described in this Paragraph B.

(b) The Grantee shall execute and deliver to the Grantor a deed or other instrument of release as provided in Paragraph B. 3.

5. The Grantor shall bear all expenses and the cost of all transfer and recording taxes, fees and charges in connection with all deeds and other instruments delivered pursuant to this Paragraph B.

RESERVING AND EXCEPTING, HOWEVER, TO THE GRANTOR:

C. All the respective right, title and interest of the Grantor, legal and equitable, in and to the real property described in Exhibit B attached to this Deed as a part hereof, but subject, however, to (a) the limitation of access thereto across the real property conveyed by this Deed as hereinafter provided and (b) the easements and rights conveyed pursuant to Paragraph B above.

D. 1. The easements and rights to use, operate, maintain, repair, renew, replace and remove on, under, over and across the real property conveyed by this Deed ("Grantee's Burdened Property"), any and all lines, poles, pipes, appliances, equipment, structures, facilities and appurtenances (each an "Easement Item") existing on and used or useful as of the date of delivery of this Deed as a part of any railroad communication, signal or interlocker system or as a part of any electric, telephone, telegraph, water, gas, steam, sanitary sewer, storm sewer or other utility system, together with the easement of reasonable access over the Grantee's Burdened Property to permit the exercise of the foregoing easements and rights, and the easement for lateral support of the real property reserved and excepted from this conveyance.

2. The easements and rights for the specific uses, if any, (each an "Easement Item") particularly described in Exhibit B to this Deed and burdening certain real property conveyed by this Deed.

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OCT 12 1978

DONALD LANE
SECRETARY OF STATE

3. The Grantor shall give the Grantee reasonable notice before entering on the Grantee's Burdened Property to exercise the easements and rights reserved and excepted in this Paragraph D, and shall exercise such easements and rights (a) so as not to interfere unreasonably with the use and enjoyment of the Grantee's Burdened Property, (b) in compliance with generally applicable reasonable requirements established from time to time by the Grantee and (c) so as not to increase materially the burden on the Grantee's Burdened Property existing on the date of delivery of this Deed. The Grantor shall indemnify and save the Grantee harmless from any loss, damage or expense arising from the exercise of the foregoing easements and rights, without regard to negligence on the part of the Grantee or the Grantor. Upon request of and at the expense of the Grantee, the Grantor shall execute and deliver to the Grantee a deed or other instrument releasing the Grantor's rights in any part of the Grantee's Burdened Property that is not used or reasonably needed by the Grantor in the exercise of the easements and rights reserved and excepted in this Paragraph D.

4. If the location of any Easement Item would interfere with any proposed use or sale of any part of the Grantee's Burdened Property, the Grantee may, at the Grantee's expense and after obtaining the Grantor's written consent, relocate the interfering Easement Item or cause the same to be relocated. Such consent will be granted unless (a) the Easement Item cannot be relocated as proposed by the Grantee without unreasonable interference to the Grantor's operations or without damage to the integrity of the system of which the Easement Item is a part or (b) the Grantor will not have reasonable access to the relocated Easement Item. If the Grantor has previously released its easements and rights in any real property as provided in Paragraph D. 3. and a relocated Easement Item falls, in whole or in part, within the area that has been so released, the Grantor and the Grantee shall exchange the following instruments promptly after the relocation is completed:

(a) The Grantee shall execute and deliver to the Grantor a supplementary deed of easement which conveys to the Grantor with respect to the relocated Easement Item the easements and rights described in this Paragraph D.

(b) The Grantor shall execute and deliver to the Grantee a deed or other instrument of release as provided in Paragraph D. 3.

5. The Grantee shall bear all expenses and the cost of all transfer and recording taxes, fees and charges in connection with all deeds and other instruments delivered pursuant to this Paragraph D.

E. All mineral rights owned by the Grantor in any parcel as to which an interest in the surface is not conveyed by this Deed.

TO HAVE AND TO HOLD the real property and the easements and rights hereby conveyed to the Grantee, free and clear of (a) any liens or encumbrances as provided in Section 303 (b) of the Act and (b) any and all easements and rights of access to the real property reserved and excepted from this conveyance across the real property conveyed by this Deed (except as otherwise provided in this Deed), even if such easements and rights would otherwise arise by reason of necessity, implication or other operation of law, statute, ordinance, rule or regulation of any governmental entity, **BUT SUBJECT, HOWEVER,** to (i) those easements and rights reserved and excepted in Paragraph D above, (ii) all existing licenses, easements, leases (other than those which may have been created to secure payment of a financial obligation), and operating, trackage right and joint facility agreements and (iii) Operating Rights Grants, if any, from the Grantor to a third party conveyed concurrently with this conveyance and identified in Exhibit B to this Deed.

The Grantor hereby covenants that the Grantor will perform, execute, acknowledge and deliver any and all such further acts, deeds, assignments and other instruments as may be reasonably requested by the Grantee to convey, confirm, clarify, identify or more precisely describe the real property and the easements and rights conveyed by this Deed or intended so to be in order to carry out the intent of this Deed in light of the designations contained in the Final System Plan which has been certified to the Special Court by the United States Railway Association pursuant to the Act, and to effect the recordation of, or otherwise perfect, this Deed and all such other deeds, assignments and instruments under any applicable statute, ordinance, rule or regulation.

The Grantee hereby covenants that the Grantee will perform, execute, acknowledge and deliver any and all such further acts, deeds, assignments and other instruments as may be reasonably requested by the Grantor to confirm, clarify, identify or more precisely describe the real property and the easements and rights reserved and excepted from this conveyance or intended so to be in order to carry out the intent of this Deed in light of the designations contained in such Final System Plan, and to effect the recordation of, or otherwise perfect, this Deed and all such other deeds, assignments and instruments under any applicable statute, ordinance, rule or regulation.

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DONALD LAM
SECRETARY OF STATE

0091

By acceptance of this Deed, the Grantee (a) agrees to perform each of the obligations imposed on the Grantee by the terms of this Deed, and (b) assumes and agrees to perform and observe all obligations and conditions on the part of the Grantor or the Grantor's predecessor in title to be performed or observed that arise or accrue after the date of delivery of this Deed under all licenses, easements, leases (other than those which may have been created to secure payment of a financial obligation) and operating, trackage right and joint facility agreements (subject, however, to the terms thereof) which are conveyed by this Deed and under those to which this conveyance is made subject, provided that the Grantee assumes no obligation or liability that arises after the date of delivery of this Deed out of any event, act or failure to act that occurred prior thereto and, where an obligation or liability is related to a period which is both before and after such date, the Grantee assumes only that portion of the obligation or liability which is reasonably allocable to the part of the period after such date. Concurrently with the delivery of this Deed, the Grantee is delivering to the Grantor a separate instrument executed by the Grantee acknowledging receipt and acceptance of this Deed and affirming the provisions of this paragraph.

All of the covenants of the Grantor and the Grantee, respectively, shall be deemed to be real covenants and shall run with the land.

The words "Grantor" and "Grantee" used herein shall be construed as if they read "Grantors" and "Grantees", respectively, whenever the sense of this Deed so requires and, whether singular or plural, such words shall be deemed to include in all cases the successors and assigns of the respective parties.

This conveyance and the specific covenants of the Grantor are made by the Grantor as Trustee of the property of the Debtor, and not individually, and this conveyance is made without covenants of title or any warranties express or implied.

IN WITNESS WHEREOF, the Grantor has executed this Deed this 31st day of March, 1976.

Signed and Acknowledged
in the Presence of:

Anna Freund
Anna Freund
Peter S. Reichertz
Peter S. Reichertz

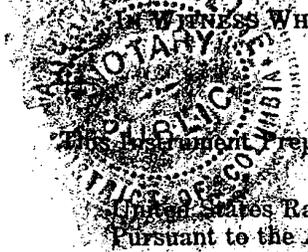
Fairfax Leary W.S.
FAIRFAX LEARY, AS
TRUSTEE OF THE PROPERTY OF THE
UNITED NEW JERSEY RAILROAD
AND CANAL COMPANY, DEBTOR

FILED AND RECORDED
OCT 12 1978
DONALD LAN
SECRETARY OF STATE

DISTRICT OF COLUMBIA, SS:

On this 31st day of March, 1976, before me, a Notary Public authorized to take acknowledgements and proofs in the District of Columbia, personally appeared Fairfax Leary, personally known to me to be the person whose name is subscribed to the foregoing Deed, bearing the same date as this certificate of acknowledgement, and acknowledged himself to be the Trustee of the Property of The United New Jersey Railroad and Canal Company, Debtor, and that he executed the foregoing Deed as his free act and deed as such Trustee for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



This document prepared by:
United States Railway Association
Pursuant to the Act

Barbara P. Kline
Notary Public in and for
the District of Columbia
My Commission expires June 30, 1979

3286 760

Document No.

0092

UNJ-CRC-RP-4

EXHIBIT A

TO THE DEED BY AND BETWEEN

FAIRFAX LEARY,

AS TRUSTEE OF THE PROPERTY OF

THE UNITED NEW JERSEY RAILROAD AND CANAL COMPANY, DEBTOR

AND

CONSOLIDATED RAIL CORPORATION

DESCRIPTION OF REAL PROPERTY

LOCATED IN

County of Hudson, State of New Jersey

FILED AND RECORDED
OCT 12 1978
DONALD LAN
SECRETARY OF STATE

For the purpose of each description contained in this Exhibit A (and solely by way of illustration and not by way of limiting the generality of the term "adjacent"), adjacency shall be deemed to exist without regard to the existence of any public or private street, highway, alley or other way between one part of the Grantor's real property and another.

This Exhibit A consists of the following pages only: A-1, A-2, A-3, A-4, A-5, A-7, A-8, A-9, A-10, A-11.

LIBER 3286 PG 761

-5-
A-1

000129

0093

Document No.

UNJ-CRC-RP-4

Situate in the County of Hudson, State of New Jersey, and being The United New Jersey Railroad and Canal Company's line of railroad known as the Penn Central Harsimus Branch and being all the real property in the County lying in, under, above, along, contiguous to, adjacent to or connecting to such line.

Such line originates in the County at Harsimus Cove, passes through Journal Square, and terminates in the County near the junction with the Penn Central New York-Philadelphia Main Line, west of the New Jersey Turnpike Overhead Bridge.

The line of railroad described herein is identified as Line Code 1420 in the records of the United States Railway Association.

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LIBER 3286 PG 762

0094

Document No.

UNJ-CRC-RP-4

Situate in the County of Hudson, State of New Jersey, and being The United New Jersey Railroad and Canal Company's line of railroad known as the Penn Central Passaic Branch and being all the real property in the County lying in, under, above, along, contiguous to, adjacent to or connecting to such line.

Such line enters the County near the Passaic River under the New Jersey Turnpike Bridge, and terminates in the County near Meadows Yard.

The line of railroad described herein is identified as Line Code 1421 in the records of the United States Railway Association.

FILED AND RECORDED
OCT 12 1978
DONALD LAN
SECRETARY OF STATE

A-3

LIBER 3286 EG 763

-7-
000131

0095

Document No.

UNJ-CRC-RP-4

Situate in the County of Hudson, State of New Jersey, and being The United New Jersey Railroad and Canal Company's line of railroad known as the Penn Central Greenville Branch and being all the real property in the County lying in, under, above, along, contiguous to, adjacent to or connecting to such line.

Such line enters the County near the Newark Bay Drawbridge, and terminates in the County at Greenville Yard.

The line of railroad described herein is identified as Line Code 1422 in the records of the United States Railway Association.

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OCT 12 1978
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SECRETARY OF STATE

A-4

LIBER 3286 - 764
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FILED AND RECORDED
OCT 12 1978
DONALD LAN
SECRETARY OF STATE

Document No.

UNJ-CRC-RP-4

Situate in the County of Hudson, State of New Jersey, and being The United New Jersey Railroad and Canal Company's line of railroad known as the Penn Central Center Street Branch and being all the real property in the County lying in, under, above along, contiguous to, adjacent to or connecting to such line.

Such line originates in the County in Harrison, connecting to another line of railroad known as the Penn Central New York-Philadelphia, and terminates in the County near Harrison Freight Station, First Street Yard.

The line of railroad described herein is identified as Line Code 1431 in the records of the United States Railway Association.

LIBER 3286 - 765

-9-

0097

FILED AND RECORDED
OCT 12 1978
DONALD LAN
SECRETARY OF STATE

Document No.

UNJ-CRC-RP-4

Situate in the County of Hudson, State of New Jersey, and being The United New Jersey Railroad and Canal Company's line of railroad known as the Penn Central Meadows Branch Track No. 1 and being all the real property in the County lying in, under, above, along, contiguous to, adjacent to or connecting to such line.

Such line originates in the County near Meadows Yard, and terminates in the County near Federal Ship Yard.

The line of railroad described herein is identified as Line Code 1434 in the records of the United States Railway Association.

A-7

LIBER 3286 EC 766

-10-

0098

FILED AND RECORDED
OCT 12 1978
DONALD LAN
SECRETARY OF STATE

Document No.

UNJ-CRC-RP-4

Situate in the County of Hudson, State of New Jersey, and being The United New Jersey Railroad and Canal Company's line of railroad known as the Penn Central Meadows Branch Track No. 2 and being all the real property in the County lying in, under, above, along, contiguous to, adjacent to or connecting to such line.

Such line originates in the County near Meadows Yard, and terminates in the County near Lincoln Highway.

The line of railroad described herein is identified as Line Code 1434A in the records of the United States Railway Association.

A-8

LIBRARY 3286 PG 767

-11-

0099

FILED AND RECORDED
OCT 12 1978
DONALD LAN
SECRETARY OF STATE

Document No.

UNJ-CRC-RP-4

Situate in the County of Hudson, State of New Jersey, and being The United New Jersey Railroad and Canal Company's line of railroad known as the Penn Central Harrison East Newark Connection, and being all the real property in the County lying in, under, above, along, contiguous to, adjacent to or connecting to such line.

Such line originates in the County near 3rd and Essex Streets in Harrison, connecting to another line of railroad known as the Penn Central Center Street Branch and terminates in the County near 1st and Sussex Streets.

The line of railroad described herein is identified as Line Code 1438 in the records of the United States Railway Association.

LIBR 3286 PG 768

- 12 -

0100

FILED AND RECORDED
OCT 12 1978
DONALD LAR
SECRETARY OF STATE

Document No.
UNJ-CRC-RP-4

Situate in the County of Hudson, State of New Jersey, and being the United New Jersey Railroad and Canal Company's line of railroad known as The Penn Central Hudson Street Branch and being all the real property in the County lying in, under, above, along, contiguous to, adjacent to or connecting to such line.

Such line originates in the County near Montgomery and Hudson Streets in Jersey City, connecting to another line of railroad known as the Harsimus Cove Yard, passes through Hudson Street, Essex Street, and Warren Street and terminates in the County 1 1/2 blocks west of the intersection of Warren and Essex Streets.

The line of railroad described herein is identified as Line Code 1440 in the records of the United States Railway Association.

LIBER 3286 PG 769

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A- 10 .

0101

FILED AND RECORDED
OCT 12 1978
DONALD LAN
SECRETARY OF STATE

Document No.

UNJ-CRC-RP-4

Situate in the County of Hudson, State of New Jersey, and being the United New Jersey Railroad and Canal Company's line of railroad known as The Penn Central Susquehanna Connection, Marion Branch and being all the real property in the County lying in, under, above, along, contiguous to, adjacent to or connecting to such line.

Such line originates in the County at Marion Junction, connecting to another line of railroad known as The Penn Central Harsimus Branch, and terminates in the County, near Secaucus Road.

The line of railroad described herein is identified as Line Code 1441 in the records of the United States Railway Association.

LIBER 3286 PG 770

-14-

A-11

000138

***PAGES EXCERPTED ***

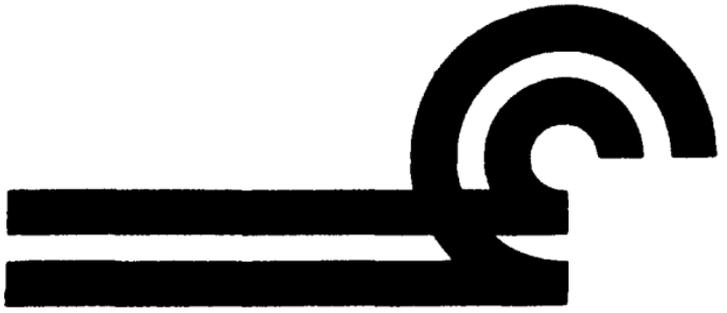
EXHIBIT G-1

Exhibit G-1

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Conrail Track Map, Zone 17, page 1 (1985)



CONRAIL

STATIONS DEPARTMENT
QUALITY CONTROL

ZTS
MAPS
ISSUE

MARCH
1987

NEW JERSEY DIVISION
VOLUME II

ZTS
TRACK NUMBERING SCHEME

<u>NUMBER</u>	<u>APPLIES TO</u>
<u>SERIES</u>	

- 001-199 - CLASSIFICATION TRACKS

- 200-299 - MAIN TRACKS
 - SIDINGS
 - SWITCHING LEADS
 - RAILROAD SCALE TRACKS

- 300-349 - RECEIVING TRACKS

- 350-399 - DEPARTURE TRACKS

- 400-499 - RESERVED FOR SPECIAL APPLICATIONS

- 500-527 - CAR REPAIR TRACKS
 - 528 - TRIMS INBOUND SHOP
 - 529 - TRIMS OUTBOUND SHOP

- 530-539 - CLEAN OUT TRACKS

- 540-597 - INTERMODAL
 - FLEXI-FLO
 - AUTO TERMINAL
 - ENGINE FACILITIES
 - OTHER COMPANY USE TRACKS FOR
LOADING AND UNLOADING
 - 598 - TICS INBOUND REPORTING
 - 599 - TICS OUTBOUND REPORTING

- 600-696 - OUTLYING YARD TRACKS
 - INTERCHANGE TRACKS

- 697-699 - DATA EXCHANGE TRACKS

- 700-997 - INDUSTRY TRACKS

- 998-999 - RESERVED FOR SPECIAL APPLICATIONS

ZONE TRACK SPOT

DESCRIPTION

ZONE: Each division is divided into a series of Zones, each individually numbered.

TRACK: Each Track in a Zone will have a unique number assigned to it. (NOTE - there may be more than one industry on any given track).

SPOT: Will further define the location a car is to be placed (if more than one patron is located on any given track, the Spot will further define the patron's exact location). Spot number 99 99 indicates patron has no designated Spot locations on that track.

PATRON DESCRIPTION

04 829 01 01 ABC COMPANY

Indicates patron is assigned one spot delivery.

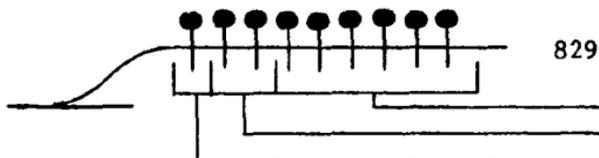
04 829 02 03 XYZ COMPANY

Indicates patron is assigned spots two & three for delivery.

04 829 04 09 GENERIC INC.

Indicates patron is assigned spots four through nine for delivery.

BUILDING



NOTE: While all above patrons are on one track, they are separated by unique spot numbers.

***PAGES EXCERPTED ***

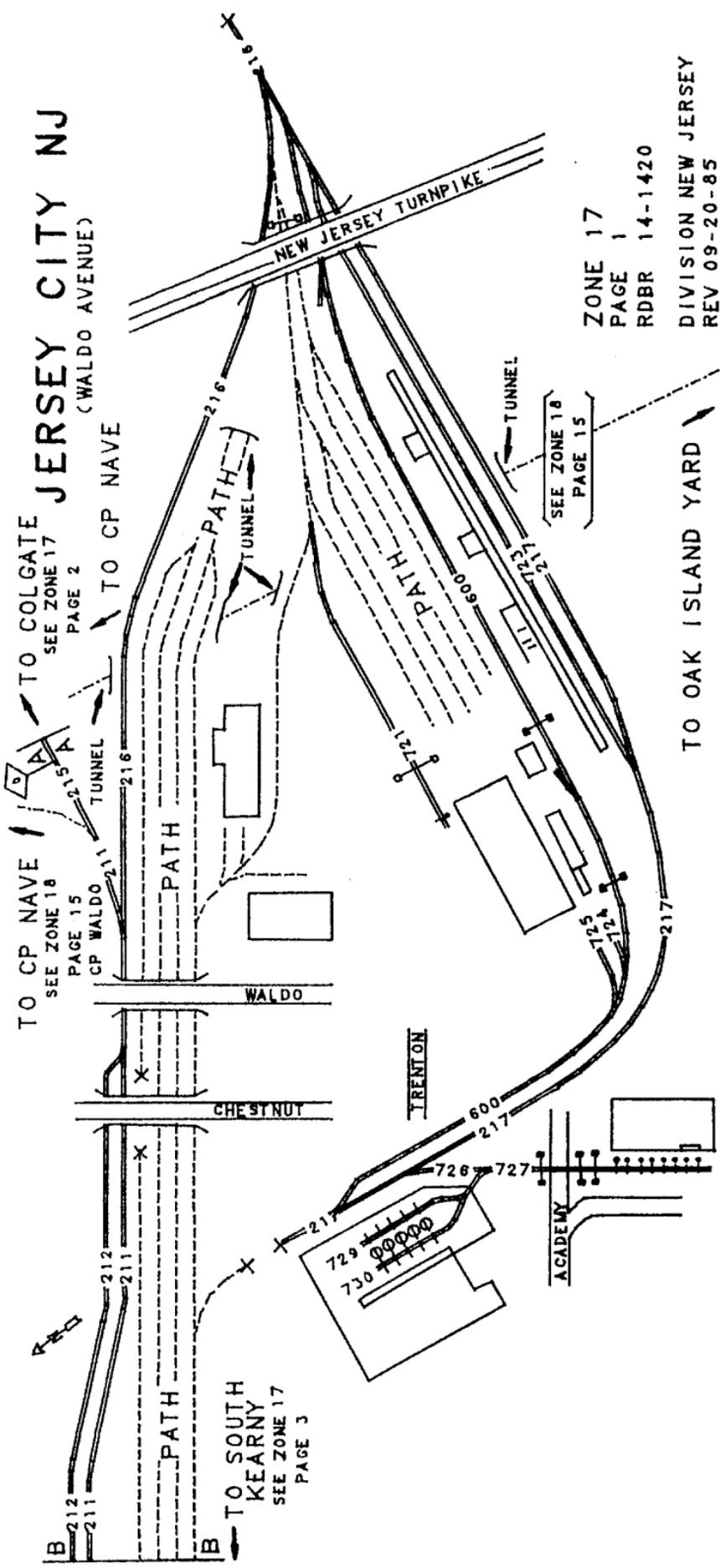
ZONE 17

PAGE 1 of 11

17 211 00 00 Passaic & Harsimus Line #1
17 212 00 00 Passaic & Harsimus Line #2
17 215 00 00 Harsimus Cove Elevation Track
17 216 00 00 Waldo Ave. Yard Lead
17 217 00 00 Switching Lead/Runaround
17 600 00 00 Waldo Ave. Yard
17 721 01 01 MacMillan Bloedel Containers
17 723 99 99 MacMillan Bloedel Containers
17 723 99 99 Oliveri Sons
17 724 99 99 Vacant
17 725 99 99 Vacant
17 726 99 99 Mueller/Block Drug Lead
17 727 01 08 Block Drug
17 729 01 05 C. F. Mueller
17 730 01 05 C. F. Mueller

JERSEY CITY NJ

(WALDO AVENUE)



ZONE 17
PAGE 1
RDBR 14-1420
DIVISION NEW JERSEY
REV 09-20-85

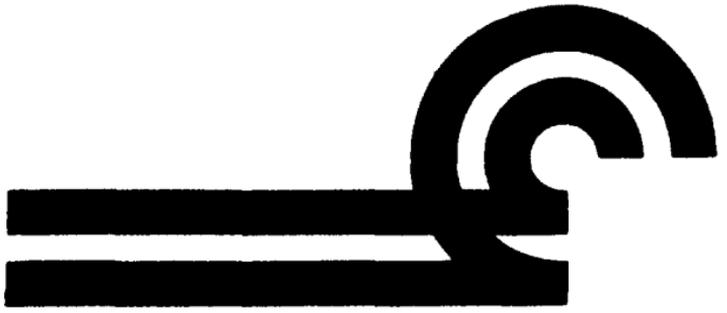
EXHIBIT G-2

Exhibit G-2

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Conrail Track Map, Zone 17, page 2 (1985)



CONRAIL

STATIONS DEPARTMENT
QUALITY CONTROL

ZTS
MAPS
ISSUE

MARCH
1987

NEW JERSEY DIVISION
VOLUME II

ZTS
TRACK NUMBERING SCHEME

<u>NUMBER</u> <u>SERIES</u>	<u>APPLIES TO</u>
--------------------------------	-------------------

- 001-199 - CLASSIFICATION TRACKS
- 200-299 - MAIN TRACKS
 - SIDINGS
 - SWITCHING LEADS
 - RAILROAD SCALE TRACKS
- 300-349 - RECEIVING TRACKS
- 350-399 - DEPARTURE TRACKS
- 400-499 - RESERVED FOR SPECIAL APPLICATIONS
- 500-527 - CAR REPAIR TRACKS
 - 528 - TRIMS INBOUND SHOP
 - 529 - TRIMS OUTBOUND SHOP
- 530-539 - CLEAN OUT TRACKS
- 540-597 - INTERMODAL
 - FLEXI-FLO
 - AUTO TERMINAL
 - ENGINE FACILITIES
 - OTHER COMPANY USE TRACKS FOR
LOADING AND UNLOADING
 - 598 - TICS INBOUND REPORTING
 - 599 - TICS OUTBOUND REPORTING
- 600-696 - OUTLYING YARD TRACKS
 - INTERCHANGE TRACKS
- 697-699 - DATA EXCHANGE TRACKS
- 700-997 - INDUSTRY TRACKS
- 998-999 - RESERVED FOR SPECIAL APPLICATIONS

ZONE TRACK SPOT

DESCRIPTION

ZONE: Each division is divided into a series of Zones, each individually numbered.

TRACK: Each Track in a Zone will have a unique number assigned to it.
(NOTE - there may be more than one industry on any given track).

SPOT: Will further define the location a car is to be placed (if more than one patron is located on any given track, the Spot will further define the patron's exact location). Spot number 99 99 indicates patron has no designated Spot locations on that track.

PATRON DESCRIPTION

04 829 01 01 ABC COMPANY

Indicates patron is assigned one spot delivery.

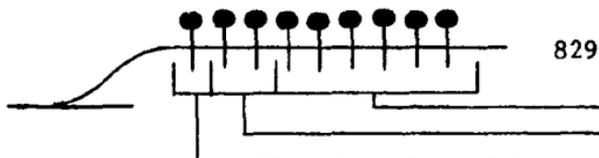
04 829 02 03 XYZ COMPANY

Indicates patron is assigned spots two & three for delivery.

04 829 04 09 GENERIC INC.

Indicates patron is assigned spots four through nine for delivery.

BUILDING



NOTE: While all above patrons are on one track, they are separated by unique spot numbers.

***PAGES EXCERPTED ***

ZONE 17

PAGE 2

17 210 00 00 Hudson St. Industrial
17 213 00 00 Harsimus Cover #3 Ladder
17 214 00 00 Switching Lead
17 215 00 00 Harsimus Cove Elevation Track
17 700 01 02 Onyx
17 702 99 99 Vacant (Colgate Sugar House)
17 703 99 99 Vacant
17 705 99 99 Colgate Palmolive
17 707 01 03 Colgate Palmolive-New Yard
17 708 99 99 Colgate Palmolive-Switching Lead
17 709 01 02 Colgate Palmolive - South
17 710 01 05 Colgate Palmolive - North
17 711 99 99 Colgate Palmolive
17 712 01 01 Colgate Palmolive
17 714 01 07 Colgate Palmolive
17 715 99 99 Colgate Palmolive-Switching Lead
17 716 99 99 Colgate Palmolive-Switching Lead
17 717 99 99 Colgate Palmolive - Scale Track
17 718 01 05 Colgate Palmolive-Inside Track
17 719 01 11 Colgate Palmolive-Outside Track
17 731 01 28 W. J. Morris
17 732 99 99 W. J. Morris
17 733 99 99 W. J. Morris

EXHIBIT G-3

Exhibit G-3

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Conrail Track Map, Zone 18, page 1 (1985)



CONRAIL

STATIONS DEPARTMENT
QUALITY CONTROL

ZTS
MAPS
ISSUE

MARCH
1987

NEW JERSEY DIVISION
VOLUME II

ZTS
TRACK NUMBERING SCHEME

<u>NUMBER</u> <u>SERIES</u>	<u>APPLIES TO</u>
--------------------------------	-------------------

- 001-199 - CLASSIFICATION TRACKS

- 200-299 - MAIN TRACKS
 - SIDINGS
 - SWITCHING LEADS
 - RAILROAD SCALE TRACKS

- 300-349 - RECEIVING TRACKS

- 350-399 - DEPARTURE TRACKS

- 400-499 - RESERVED FOR SPECIAL APPLICATIONS

- 500-527 - CAR REPAIR TRACKS
 - 528 - TRIMS INBOUND SHOP
 - 529 - TRIMS OUTBOUND SHOP

- 530-539 - CLEAN OUT TRACKS

- 540-597 - INTERMODAL
 - FLEXI-FLO
 - AUTO TERMINAL
 - ENGINE FACILITIES
 - OTHER COMPANY USE TRACKS FOR
LOADING AND UNLOADING
 - 598 - TICS INBOUND REPORTING
 - 599 - TICS OUTBOUND REPORTING

- 600-696 - OUTLYING YARD TRACKS
 - INTERCHANGE TRACKS

- 697-699 - DATA EXCHANGE TRACKS

- 700-997 - INDUSTRY TRACKS

- 998-999 - RESERVED FOR SPECIAL APPLICATIONS

ZONE TRACK SPOT
DESCRIPTION

ZONE: Each division is divided into a series of Zones, each individually numbered.

TRACK: Each Track in a Zone will have a unique number assigned to it.
(NOTE - there may be more than one industry on any given track).

SPOT: Will further define the location a car is to be placed (if more than one patron is located on any given track, the Spot will further define the patron's exact location). Spot number 99 99 indicates patron has no designated Spot locations on that track.

PATRON DESCRIPTION

04 829 01 01 ABC COMPANY

Indicates patron is assigned one spot delivery.

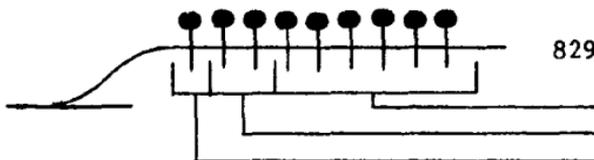
04 829 02 03 XYZ COMPANY

Indicates patron is assigned spots two & three for delivery.

04 829 04 09 GENERIC INC.

Indicates patron is assigned spots four through nine for delivery.

BUILDING



NOTE: While all above patrons are on one track, they are separated by unique spot numbers.

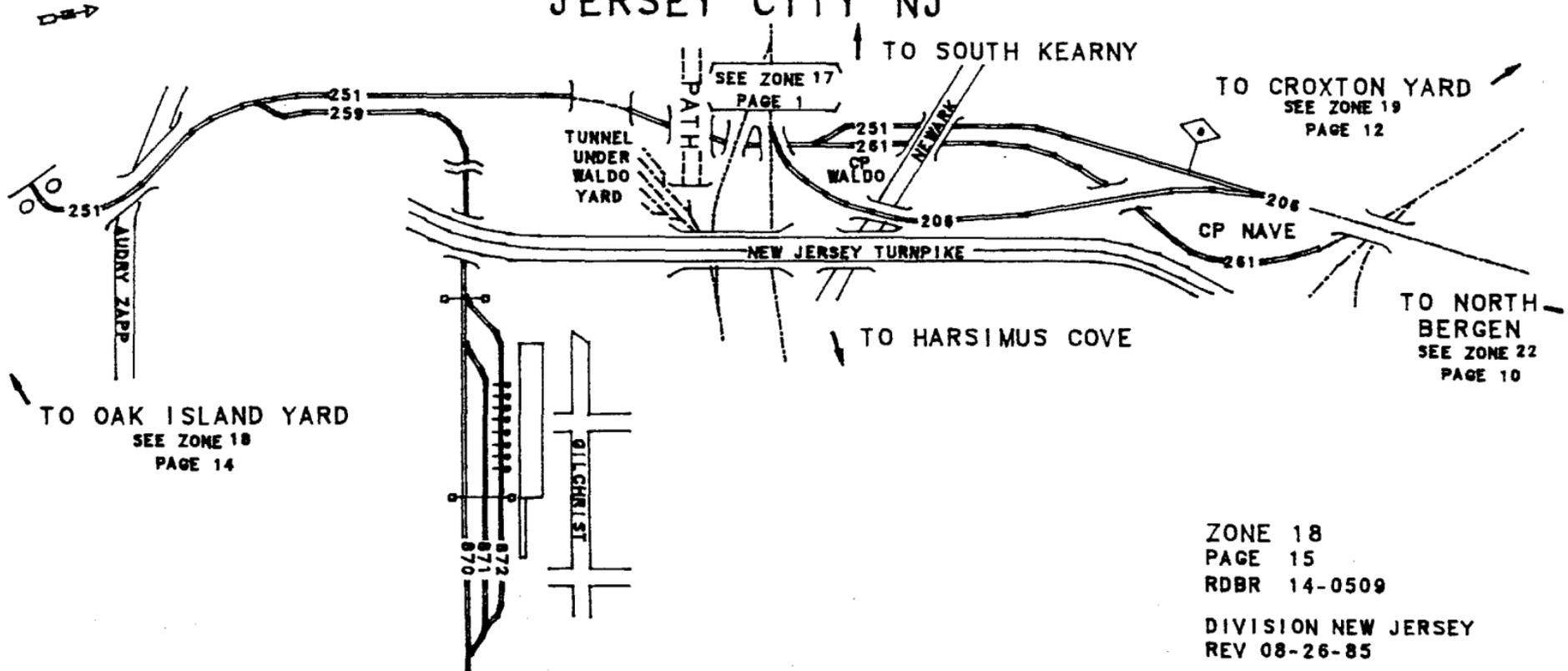
***PAGES EXCERPTED ***

ZONE 18

PAGE 15

18 206 00 00 River Line
18 251 00 00 National Dock Secondary
18 259 00 00 Edgewater Track
18 261 00 00 Nave Connection Running Track
18 870 99 99 Cormett Forwarding
18 871 99 99 Cormett Forwarding
18 872 01 08 Cormett Forwarding

JERSEY CITY NJ



000160

ZONE 18
PAGE 15
RDBR 14-0509

DIVISION NEW JERSEY
REV 08-26-85

EXHIBIT H

Exhibit H

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Declaration of Daniel E. Horgan filed on September 6, 2012 in matter captioned City of Jersey City et al. v. Conrail et al., U.S. District Court, District of Columbia, docket number 09-1900 (ABJ), with exhibits and original cover sheet (14 pages)

Exhibit 8

In support of Intervenor-Defendants' opposition to Plaintiffs' Motion for Summary Judgment

Nature of Exhibit: Declaration of Daniel E. Horgan, Esq. (River Line)

In the matter:

City of Jersey City et al. v. Consolidated Rail Corporation, et al.

C.A. No. 09-1900 (CKK)

Daniel E. Horgan, Esq.
Bar No. 239772
Waters, McPherson, McNeill, P.C.
300 Lighting Way
P.O. Box 1560
Secaucus, NJ 07096
(201) 863-4400

Counsel for Intervenor-Defendants - 212 Marin
Boulevard, LLC; 247 Manila Avenue, LLC; 280
Erie Street, LLC; 317 Jersey Avenue, LLC; 354
Coles Street, LLC; 389 Monmouth Street, LLC; 415
Brunswick Street, LLC; and 446 Newark Avenue,
LLC

Dated: September 6, 2012

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CITY OF JERSEY CITY, *et al.*)
)
 Plaintiffs)
)
 v.)
)
 CONSOLIDATED RAIL CORPORATION,)
)
 Defendant, and)
)
 212 MARIN BOULEVARD, LLC, *et al.*,)
)
 Defendant-Intervenors.)

C.A. No. 09-01900-CKK

DECLARATION OF

DANIEL E. HORGAN

1. I am an attorney at law admitted to practice before the United States District Court for the District of Columbia, and a member of the law firm Waters, McPherson, McNeill, P.C., counsel to the Defendants-Intervenors (the "LLCs"). I make this Declaration in opposition to the motion for summary judgment filed by Plaintiffs. I make this Declaration based upon my personal knowledge, which includes my review of documents submitted to this Court.

2. This Declaration concerns a specific factual issues presented by the LLCs concerning the abandonment of a line of rail called the River Line in 2001 by the Surface Transportation Board.

3. In order to confirm that the tracks of the River Line and of the Harsimus Branch in fact converged at a point approximately 750 feet to the east of CP Waldo, on Friday, August 31, 2012, I visited that location and took the photographs described below. These photographs are accurate depictions of what appeared at the locations described on the date they were taken.

4. I located the area utilizing a current Google Earth image of the location and a portion of the April 8, 1979 aerial photo from Keystone Aerial Surveys submitted as an Exhibit in this matter. I was able to easily find the currently active National Docks Line of Conrail, as well as remnants of both the River Line and the piers which had supported the elevated portions of the Harsimus Branch.

5. From a point on the active rail line at the lowest elevation in the area which I know as the National Docks Line of Conrail, I was able to determine that each of the River Line and the Harsimus Branch passed above that line at the same elevation. Immediately to the east of the National Docks Line the River Line is carried on a steel bridge supported by a steel pier, and a stone and concrete pier of the Harsimus Branch is a short distance away to the South, but the overhead structure is missing. This is shown in the photo at Attachment A, which looks to the South along the National Docks Line. A single stone and concrete abutment on the west side of the National Docks Line is in the shadows at the right of this picture.

6. Attachment B was taken from the top of the abutment just mentioned and looking to the North-East shows the surface of the River Line bridge with an iron side railing and only one of the two tracks remaining as can be seen behind a graffiti covered concrete barrier. The tracks of the River Line essentially ended at that point. To the right, looking roughly east in this photograph is the top of the Harsimus Branch stone and concrete abutment which can be seen with remnants of steel plates on its top. The point where the picture was taken is located between the alignments of the two lines as they merged, just slightly behind the point of view in the picture. This picture establishes that the two lines ran at the same elevation and merged together near this point. The conditions are consistent with those in the 1979 aerial photo from Keystone.

7. I then proceeded toward CP Waldo along the path of the tracks shown in the 1979 Keystone aerial photo. Attachment C shows the approximate area where the switch between the River Line and the Harsimus Branch would have been located as a flat area, the surface of which is mostly railroad ballast (gravel). Within this area, and immediately adjacent to it, can be found remnants of the track running West from the switch area along the route to CP Waldo. This exposed track is shown in the photo Attachment D, which shows only a few feet of rail exposed at the surface of the gravel placed throughout the area.

8. The arc of the original line of the rail as shown in the 1979 photo is very heavily overgrown with brush and trees and is not readily passable. However, it is possible to walk almost parallel to it on an old access road which is slightly to the North and West. This can be seen in various photos of the site. This leads directly to CP Waldo up to a point where the remaining route is blocked by a chain link gate shown in the photo Attachment E. This gate is just to the right of a utility pole which coincidentally carries overhead catenaries as is believed to have served the Harsimus Stem. The area shown in the photo is separated from the active rail like of the PATH in this area by fencing which bears PATH signs warning against dangers of High Voltage from its third rail (not catenary) operations. Finally, the pedestrian bridge which is shown is found in all of the aerial photos used as exhibits in this matter and is shown in the upper portion of the photo.

9. I am aware of the provisions of Title 28 of the United States Code, Section 1746, and I declare under penalty of perjury that the foregoing is true and correct.

Executed on: September 6, 2012

S/ Daniel E. Horgan

Daniel E. Horgan

715346.1

Exhibit 8

Attachment A (thereto)

In support of Intervenor-Defendants' opposition to Plaintiffs' Motion for Summary Judgment

Nature of Exhibit: August 2012 photograph of area immediately to the east of the National Docks Line where the River Line is carried on a steel bridge supported by a steel pier, and a stone and concrete pier of the Harsimus Branch is a short distance away to the South, looking to the South along the National Docks Line.

In the matter:

City of Jersey City et al. v. Consolidated Rail Corporation, et al.
C.A. No. 09-1900 (CKK)

Daniel E. Horgan, Esq.
Bar No. 239772
Waters, McPherson, McNeill, P.C.
300 Lighting Way
P.O. Box 1560
Secaucus, NJ 07096
(201) 863-4400

Counsel for Intervenor-Defendants - 212
Marin Boulevard, LLC; 247 Manila Avenue,
LLC; 280 Erie Street, LLC; 317 Jersey
Avenue, LLC; 354 Coles Street, LLC; 389
Monmouth Street, LLC; 415 Brunswick
Street, LLC; and 446 Newark Avenue, LLC

Dated: September 6, 2012

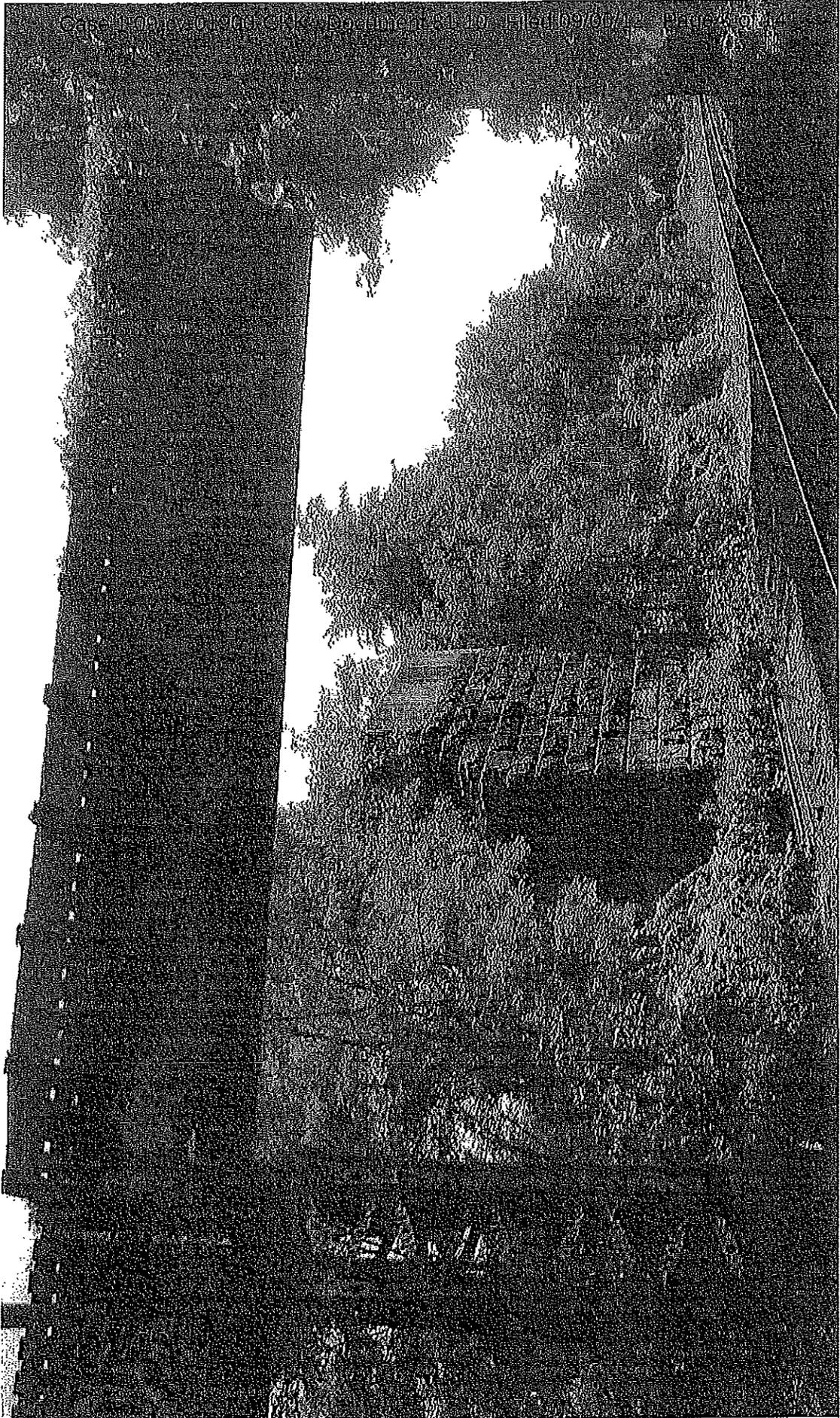


Exhibit 8

Attachment B (thereto)

In support of Intervenor-Defendants' opposition to Plaintiffs' Motion for Summary Judgment

Nature of Exhibit: August 2012 photograph taken from top of concrete abutment on the west side of the National Docks Line and looking to the North-East showing the surface of the River Line bridge with an iron side railing and only one of the two tracks remaining as can be seen behind a graffiti covered concrete barrier

In the matter:

City of Jersey City et al. v. Consolidated Rail Corporation, et al.
C.A. No. 09-1900 (CKK)

Daniel E. Horgan, Esq.
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LLC; 280 Erie Street, LLC; 317 Jersey
Avenue, LLC; 354 Coles Street, LLC; 389
Monmouth Street, LLC; 415 Brunswick
Street, LLC; and 446 Newark Avenue, LLC

Dated: September 6, 2012



Exhibit 8

Attachment C (thereto)

In support of Intervenor-Defendants' opposition to Plaintiffs' Motion for Summary Judgment

Nature of Exhibit: August 2012 photograph showing approximate area where the switch between the River Line and the Harsimus Branch would have been located as a flat area, the surface of which is mostly railroad ballast (gravel).

In the matter:

City of Jersey City et al. v. Consolidated Rail Corporation, et al.
C.A. No. 09-1900 (CKK)

Daniel B. Horgan, Esq.
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Avenue, LLC; 354 Coles Street, LLC; 389
Monmouth Street, LLC; 415 Brunswick
Street, LLC; and 446 Newark Avenue, LLC

Dated: September 6, 2012

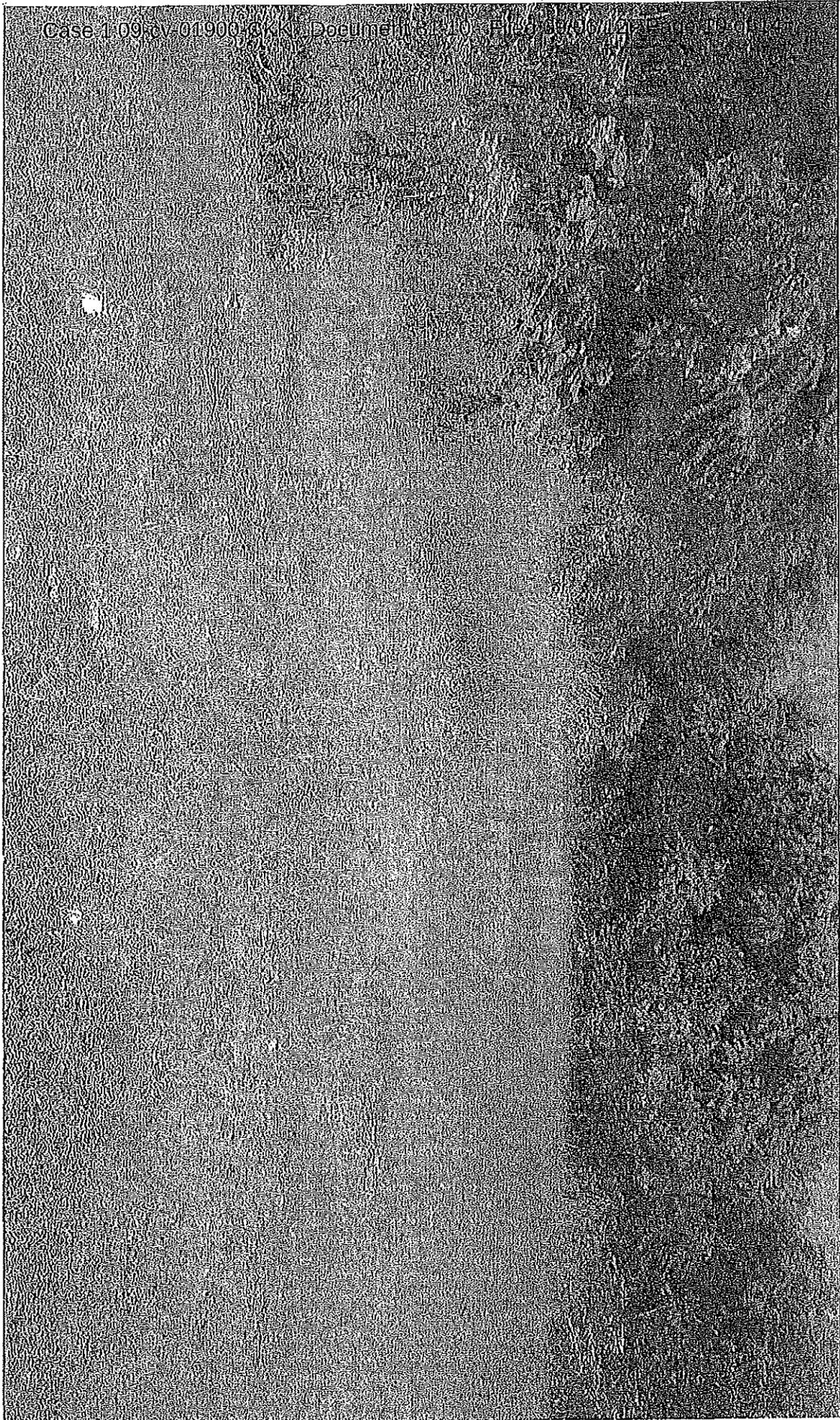


Exhibit 8:

Attachment D (thereto)

In support of Intervenor-Defendants' opposition to Plaintiffs' Motion for Summary Judgment

Nature of Exhibit: August 2012 photograph showing remnants of track running West from the switch area along the route to CP Waldo

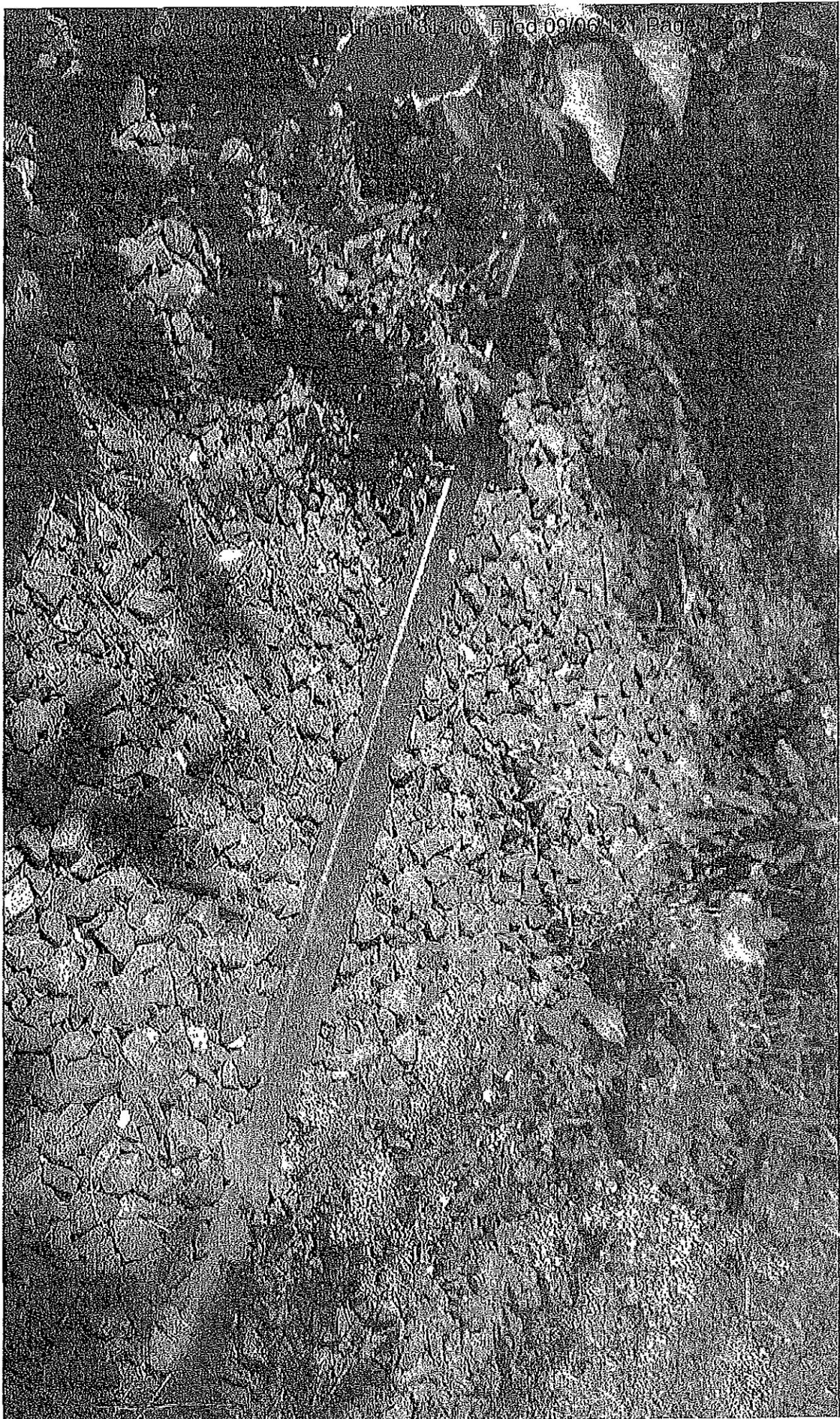
In the matter:

City of Jersey City et al. v. Consolidated Rail Corporation, et al.
C.A. No. 09-1900 (CKK)

Daniel E. Horgan, Esq.
Bar No. 239772
Waters, McPherson, McNeill, P.C.
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Counsel for Intervenor-Defendants - 212
Marin Boulevard, LLC; 247 Manila Avenue,
LLC; 280 Erie Street, LLC; 317 Jersey
Avenue, LLC; 354 Coles Street, LLC; 389
Monmouth Street, LLC; 415 Brunswick
Street, LLC; and 446 Newark Avenue, LLC

Dated: September 6, 2012



Attachment E (thereto)

In support of Intervenor-Defendants' opposition to Plaintiffs' Motion for Summary Judgment

Nature of Exhibit: August 2012 photograph showing area leading directly to CP from access road near River Line/Harsimus switch up to a point where the remaining route is blocked by a chain link gate shown in the photo.

In the matter:

City of Jersey City et al. v. Consolidated Rail Corporation, et al.
C.A. No. 09-1900 (CKK)

Daniel E. Horgan, Esq.
Bar No. 239772
Waters, McPherson, McNeill, P.C.
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Marin Boulevard, LLC; 247 Manila Avenue,
LLC; 280 Erie Street, LLC; 317 Jersey
Avenue, LLC; 354 Coles Street, LLC; 389
Monmouth Street, LLC; 415 Brunswick
Street, LLC; and 446 Newark Avenue, LLC

Dated: September 6, 2012

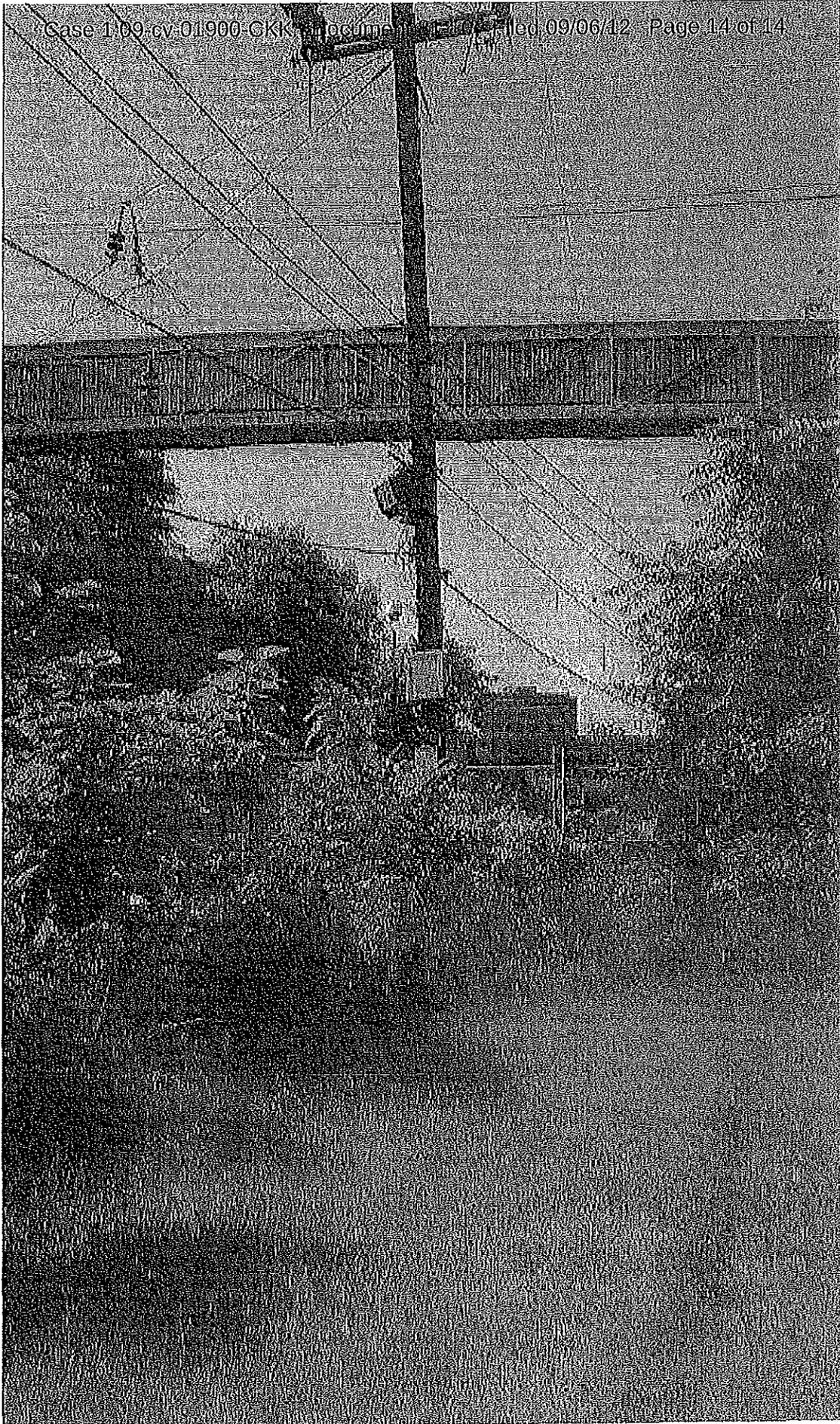


EXHIBIT I

Exhibit I

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Conrail memorandum, dated January 28, 1985

Copies to C. A. Bassani
S. E. Nadler
P. D. Cohen
from
G. M. Williams, Jr.
1-29-85

0 53
7467
G-4 NS 1-80
MEMORANDUM

CONRAIL

DATE January 28, 1985

TO R. B. Hasselman

FROM J. F. Folk *J. F. Folk*

Room 1740

Room 950

SUBJECT Passaic & Harsimus Branch / Hudson Street
Track, Jersey City, NJ

PHONE

File

As you requested, we have analyzed the Passaic & Harsimus Branch and Hudson Street Track, which are used to serve Colgate Palmolive Corporation. There are six other customers on the line, however, the Sales Department advises that Jersey City has initiated condemnation procedures towards the property of Chicago Shippers and Elk Warehouse.* Chicago Shippers and Elk Warehouse expect to receive official condemnation notices within the next month. For the 12-month period ended September, 1984, these two customers accounted for 1,767 carloads, \$2 million in revenue and \$400,000 in contribution. The Sales Department advises that these two customers hope to relocate on Conrail in the same general area.

Our analysis excludes all traffic for Chicago Shippers and Elk Warehouse. Following are the economics of the remaining traffic for the 12-month period ended September, 1984:

(Dollars in Thousands)

Carloads	1,437
Conrail Revenue	\$3,128
Operating Costs	\$2,112
<u>Rehab Requirements:</u>	
Total	\$ 581
Annual	\$ 169
<u>Contribution:</u>	
Pre-Rehab	\$1,016
Post-Rehab	\$ 847
<u>Rev/Cost Ratio:</u>	
Pre-Rehab	1.48
Post-Rehab	1.37

* Refer to Exhibit 1 for customers, traffic levels and revenues for the 12 months ending September, 1984.

R. B. Hasselman
Page 2
January 28, 1985

0 54

As indicated in the table, the traffic generates \$1 million in annual pre-rehab contribution and a revenue/cost ratio of 1.48. On a post-rehab basis, the traffic generates \$847,000 in annual contribution with a 1.37 revenue/cost ratio. Total rehab is estimated to be \$581,000.

Colgate Palmolive, with 1,068 carloads, is the major customer on the line. Currently, Colgate produces cleansing powders at this plant. Regional Market Development informs us that Colgate has announced they will cease all operations at this Jersey City plant within three years. This closing, together with the planned relocation of Chicago Shippers, will leave four remaining customers on the line, accounting for 369 annual carloads, \$447,000 in Conrail revenue, and \$12,000 in pre-rehab contribution (see Exhibit 1 attached customer list).

Given Colgate's planned closing, building a connection from the Edgewater Branch to the Hudson Street Track would not seem to be a viable option for alternative service. In July 1982, the Division Engineer estimated the cost of constructing a connection and rehab on the Edgewater Branch to be \$500,000. This estimate excluded any cost for required land purchase. The Marketing Department has examined the potential of serving Colgate via Conrail's flexi-flo operation. Results of Marketing's initial review indicate approximately 65 percent (700 carloads) of Colgate's traffic could be converted to flexi-flo and continue to produce a positive contribution. The remaining traffic (368 carloads) would probably divert to truck.

Please advise if you require additional information.

TJMc/mk

Attachment

cc: J. A. Hagen
C. N. Marshall
R. J. Conway
✓ G. M. Williams
J. R. Stanek

EXHIBIT J

Exhibit J

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Conrail memorandum, dated January 15, 1988

CONRAIL

MEMORANDUM

8-4C Nov 12-82

*JPB -
Yes - MRF
is pulling together info,
which we will review w/ WAM.
On 1-20-88
cc WAM, JPB, MRF*

0 5027

DATE: January 15, 1988

TO: E.J. F. Betak

LOCATION: L-1012

FROM: J. W. Dietz

LOCATION: P-920

SUBJECT: Line Screening Summaries - New Jersey

Attached are the line screening summaries for the State of New Jersey. In regard to this report, we have the following comments:

* Passaic & Harsimus Branch / Hudson St. Industrial

This line generated 637 carloads in 1986, but Colgate-Palmolive, which plans to close this plant in 1988, generated 82 percent (523 carloads) of the total volume. A review of 1987 data indicates that only 6 non-Colgate-Palmolive carloads were handled. This suggests that an expedited abandonment may be possible if the remaining active customer(s) discontinue rail service or relocate.

* Elizabeth Secondary (M.P. 11.1 - M.P. 15.0)

An expedited abandonment of this line is possible. One carload was reported for Roselle Paper in 1986. There are no other active customers.

* Sayreville Running Track (M.P. 12.0 - M.P. 12.3)

This line was eliminated from the monitoring list because an expedited abandonment is currently being prepared.

* Manufacturer's Extension Ind.Trk.(M.P. 0.0 - M.P. 0.9)

Poor economics of this line are the result of high volume, but low revenue, scrap paper from Woodbridge, NJ. Average revenue for 413 carloads of this traffic amounted to \$378 per carload but COSAC LTV costs average \$610 per carload.

Please contact me if you have any questions regarding this report.

LEO/dmw

Attachments

*1-18-88
WAM / Do you
concur?
JWB*

STATE: NEW JERSEY

0 51
01-14-1988
PAGE 2

CONRAIL LINE SCREENING SUMMARIES

(ALL DOLLARS IN THOUSANDS)

14 - 1420 NJ PASSAIC & HARSIMUS/HUDSON ST CLUSTER:
STATION FROM: C. P. WALDO MP: 0.0
STATION TO: JERSEY CITY MP: 0.0 LENGTH: 2.5 MILES

COMMENT: COLGATE PALMOLIVE TO CLOSE IN 1988 1987 REHAB: \$ 0.0

YEAR	CARS	CUSTMR	REVENUE	CONTRIB	REV/COST	REV/MILE	REHAB	CODE
1983	2,356	2 / 6	\$ 4,146.8	\$1,552.3	1.60	\$1658.7	\$ 0.0	
1984	1,350	1 / 6	2,867.7	973.1	1.51	1147.1	0.0	
1985	1,205	1 / 4	2,592.6	1,071.3	1.70	1037.0	0.0	
1986	637	1 / 4	1,454.2	559.9	1.63	581.7	0.0	

14 - 0215 NJ SOUTHERN SEC./TOMS RIVER I.T. CLUSTER:
STATION FROM: SOUTH LAKEWOOD MP: 0.0
STATION TO: TOMS RIVER MP: 0.0 LENGTH: 7.9 MILES

COMMENT: KEY CUSTOMER IS CIBA-GEIGY 1987 REHAB: \$ 158.6 I

YEAR	CARS	CUSTMR	REVENUE	CONTRIB	REV/COST	REV/MILE	REHAB	CODE
1983	552	1 / 4	\$ 1,363.2	\$ 572.4	1.72	\$ 172.6	\$ 0.0	
1984	454	1 / 4	1,132.6	527.0	1.87	143.4	0.0	
1985	307	1 / 4	589.0	249.3	1.73	74.6	158.5	I
1986	304	1 / 4	590.1	235.9	1.67	74.7	179.8	I

TOTAL FOR THE STATE OF NEW JERSEY: ROUTE MILES: 16.3

STATE: NEW JERSEY

01-14-1988
PAGE 1

CONRAIL LINE SCREENING SUMMARIES

(ALL DOLLARS IN THOUSANDS)

11 - 9909 NJ CLAYVILLE I. T. CLUSTER:
STATION FROM: MP: 0.0
STATION TO: CLAYVILLE MP: 1.1 LENGTH: 1.1 MILES

COMMENT: KEY CUSTOMER IS JESSIE MORIE 1987 REHAB: \$ 0.0

YEAR	CARS	CUSTMR	REVENUE	CONTRIB	REV/COST	REV/MILE	REHAB	CODE
1983	238	1 / 2	\$ 279.0	\$ 79.4	1.40	\$ 253.6	\$ 0.0	
1984	140	1 / 2	184.3	45.2	1.32	167.5	0.0	
1985	141	1 / 2	198.0	77.3	1.64	180.0	0.0	
1986	77	1 / 2	108.2	38.5	1.55	98.4	0.0	

14 - 0201 NJ ELIZABETH SEC. CLUSTER:
STATION FROM: ELIZABETH MP: 11.1
STATION TO: ALDENE MP: 15.0 LENGTH: 3.9 MILES

COMMENT: 1987 REHAB: \$ 0.0

YEAR	CARS	CUSTMR	REVENUE	CONTRIB	REV/COST	REV/MILE	REHAB	CODE
1983	38	2 / 4	\$ 30.4	\$ 2.3	1.08	\$ 7.8	\$ 0.0	
1984	9	1 / 2	6.6	0.9	1.16	1.7	0.0	
1985	0	0 / 0	0.0	0.0	0.00	0.0	0.0	
1986	1	1 / 1	2.1	0.9	1.75	0.5	0.0	

14 - 0233 NJ MANUFACTURER'S EXT. I. T. CLUSTER:
STATION FROM: MP: 0.0
STATION TO: NEWARK MP: 0.9 LENGTH: 0.9 MILES

COMMENT: KEY CUSTOMER IS RECYCLED FIBERS 1987 REHAB: \$ 594.0 F

YEAR	CARS	CUSTMR	REVENUE	CONTRIB	REV/COST	REV/MILE	REHAB	CODE
1983	228	0 / 7	\$ 296.7	\$ 44.8	1.18	\$ 329.7	\$ 0.0	
1984	117	3 / 6	166.3	18.6	1.13	184.8	0.0	
1985	470	1 / 6	324.8	-27.9	0.92	360.9	0.0	
1986	505	1 / 6	287.9	-64.1	0.82	319.9	0.0	

EXHIBIT K-1

Exhibit K-1

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

City of Jersey City City Council memo, dated February 14, 1992

Department of Administration
INTEROFFICE MEMORANDUM

DATE: 14 February 1992
TO: Councilman Jaime Vazquez
FROM: Tom Golodik, Department of Administration
SUBJECT: Conrail Sixth Street line

I have investigated the use of the rail lines running adjacent to Sixth Street by Conrail. Although there are four tracks along this right-of-way, Conrail uses only one of them. This line is not abandoned now, although the railroad does plan to abandon the line with the completion of the Marion Junction. Conrail uses the line to service one customer, American President Lines, a container shipping company in Kearny. If you review the attached map, you can see that the Sixth Street line (in pink) provides the railroad with the ability to make a "K" turn. This is necessary because the track indicated by the yellow marker does not now exist, but will be constructed as part of the Marion Junction work. This is expected to be completed within one year. Once that section of track is complete, the Sixth Street line will be abandoned.

As a result of your request at the 11 February council meeting, I have discussed the situation with the Engineering Division and Law Department. As a result of that meeting, city engineer's office will put Conrail on notice of our extreme concern regarding the safety of pedestrians and motorists following these two incidents. (Police reports attached.) We have asked for an immediate survey by Conrail of the various overpasses that this line utilizes. This should be done in conjunction with the Engineering Division. I will forward you a copy of the letter from the Engineer as soon as I receive it.

I have also asked engineering to determine, if possible, the normal length of the trains serving APL to determine if the use of the Sixth Street Line through Downtown is required.

cc: Cheryl Allen-Munley, Assistant Municipal Engineer

Jersey City Police Dept. District 10		Code 0906		47-5408		5349-92		200	
1. Classification Train Derailment				2. Station (City, State, Land) City of Jersey City					
3. Date and Time DATE AND TIME At C 7 2 3 92 0900				27. Victim's Address (City, State, Zip) 280 Grove St. Jersey City, N.J.					
13. Crime/Incident Location Monmouth St. bet. 5th and 6th Sts.				26. Employer/Address -					
14. Municipality Jersey City		15. County Hudson		16. Code 0906		28. Person Reporting Crime/Incident P.O.'s Quirk & White		29. Date and Time 2/8/92 0300	
17. Type of Premises		18. Code		19. Weapons - Taken N/A		20. Code		31. Address 8 Erie St. J.C., N.J. 07310	
32. Motor Vehicle/Committee see below									
33. Vehicle		34. Year		35. Make		36. Body Type		37. Color	
38. Request Number and State		39. Serial Number or Identification							
40. Currency		41. Jewelry		42. Furs		43. Clothing		44. Auto	
45. Miscellaneous		46. Total Value Stolen		47. Total Value Recovered		48. Teletype Alarm		49. Technical Services	
50. Technician and Agency		51. Weather clear/cold		52.		53.		54.	
55. Evidence		56. Ballistics Lab. No.		57. Chem. Lab. No.		58. N.Y. Gun		59.	
List Arrested/Summoned-List and identify additional victims-Describe perpetrators or subjects-Date action taken including findings and observations of investigators-Physical evidence found-Where, by whom-Disposition and technical services performed-Interview of Victims-Witnesses-Persons contacted-Suspects-Attach statements-Cour. Action-All NCIC Entry/Inquiries-Prisoner Disposition. Use continuation page if additional space is needed. Attach to this report.									
61. No. Arrested N/A		62. Adult		63. Juvenile		64. Status Crime N/A		65. Status Case active	
66. Name		67. ADDRESS OF ARRESTED/SUMMONED				68. Age		69. Sex	
70. Race		71. D.O.B.				72. D.O.B.			
<p>At the above time and date U/S was travelling north on Monmouth St. when we observed a train derailment on overpass (Monmouth bet. 5th & 6th) belonging to Conrail, wooden debris and a set of rail car wheels lay all across Monmouth bet. overpass. It was determined later that it was a thirty (30) car derailment and from Conrail F.D. (Gallen, Hannigan & Schmidt) there was no hazardous material on board. VE Sgt. Taylor notified and on the scene. Also present at the scene were Trainmaster Bernie Connally, Wreckmaster Hilton, Capt. Paulich (Conrail P.D.), Capt. Roemer (J.C.F.D.), E.C.I. also responded for photos. No injuries (M.C. Clyde Lewis also on scene.)</p>									
73. Name/Name (Type) P.O. Richard Quirk #1295		74. Report No. 301		75. Page 1		76. Date of Report 2/8/92		77. Reported By Sgt. J. White	
78. Signature P.O. Jay White #2346		79. Date		80. Page		81. Date of Report		82. Reported By	

Jersey City Police Dept. District: **EAST** Code: **0906** File No: **475408** Report No: **6037-92**

21. Victim Name, Street, Last: **CABLE TV of JERSEY CITY**
 22. Social Security Number: **NA**
 24. O.O.B.: **NA**
 25. Sex: **NA**
 26. Race: **NA**

DATE AND TIME: 7. Month: **02**, 8. Hour: **1500**, 9. Day: **03**, 10. Mo.: **02**, 11. Day: **11**, 12. Yr.: **92**
 27. Victim's Address (City, State, Zip): **43 PROSPECT ST. E. ORANGE, NJ 07067**
 Phone and Ext. No.: **201-915-0500**

13. Crime/Incident Location: **JERSEY AVE. btwn 9th and 6th Sts.**
 28. Employer/Address: **NA**
 Phone and Ext. No.: **NA**

14. Municipality: **Jersey City**, 15. County: **Hudson**, 16. Code: **0906**
 29. Person Reporting Crime/Incident: **CONRAIL**, 30. Date and Time: **2-11-92/1500hrs.**

17. Type of Premise: **STREET**, 18. Code: **01**, 19. Weapons - Tools: **NA**, 20. Code: **NA**, 31. Address: **NA**

32. Media Desired/How Communicated: **SEE NARRATIVE.....**

33. Vehicle: 34. Year: **91**, 35. Make: **CHEVY**, 36. Body Type: **VAN**, 37. Color: **WHT.**, 38. Registration Number and State: **XV26AE-NJ**, 39. Serial Number or Identification: **10CDM151DRL11446**
 40. Value Stolen Property: **NA**, 41. Currency: **NA**, 42. Jewelry: **NA**, 43. Tools: **NA**, 44. Clothing: **NA**, 45. Auto: **NA**, 46. Miscellaneous: **NA**

47. Total Value Stolen: **NA**, 48. Total Value Recovered: **NA**, 49. Teletype Alarm: **NA**, 50. Technical Services: **NA**, 51. Technician and Agency: **NA**

51. Weather: **CLEAR/COOL**, 52. Evidence: YES NO (M, S, I, R, T, D)
 53. Chm. Lab. No.: **NA**, 54. Ballistics Lab. No.: **NA**, 55. MV Summ.: **NA**, 56. Disposition: YES NO (A, P, T, E)
 57. Status Crime: **CLOSED**, 58. Status Case: **CLOSED**

List Arrested/Summoned—List and identify additional victims—Describe perpetrators or subjects—Date action taken including findings and observations of investigators—Physical evidence found—Where, by whom—Disposition and technical services performed—Interview of Victims—Witnesses—Persons contacted—Suspects—Attach statements—Court Action—All NCIC Entry/Inquiries—Prisoner Disposition. Use continuation page if additional space is needed. Attach to this report.

59. Name: **NA**, 60. Address of Arrested/Summoned: **NA**, 61. Age: **NA**, 62. Sex: **NA**, 63. Race: **NA**, 64. O.O.B.: **NA**

Narrative:
 On the above date at the above time Jim Faulkner of 06 Bidwell Ave. JC, NJ
 Tel: 201-971-5030 stated that he was driving the above mentioned vehicle south of
 Jersey Ave. between 6th and 5th sts. when large pieces of wood fell from the tree
 tressel above. The vehicle sustained damage to the hood, grill, left fender, roof
 and light beacon. John Laky, assistant supervisor for Conrail, responded to the
 scene. Also at the scene were N/E Sgt. O'Neil, Emergency squad and city Captain
 Killen. The debris was removed by Conrail and Mr. Laky declared the bridge safe
 at 1605hrs. Roadway was re-opened to traffic.

73. Name (Type): **P.O. WALTER J. MITCHELL**
 74. Date of Report: **2-11-92**
 75. Page: **1**
 76. Approved By: *[Signature]*

Exhibit K-2

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Letter from Engineer of the City of Jersey City to Conrail, dated February 19, 1992

CITY OF
JERSEY CITY
DIVISION OF ENGINEERING

GERALD J. NISSEN, P.E., P.P.
DIRECTOR OF ENGINEERING



280 GROVE STREET
JERSEY CITY, NJ 07302
(201) 547-4412

February 19, 1992

Mr. Ronald Conway
Division General Manager
CONRAIL
Mount Laurel Corporate Center
100 Howard Blvd.
Mt. Laurel, NJ 08054-2355

Mr. Bruce G. Willbrant
System Engineer, Maintenance of Way
CONRAIL
1646 Pennsylvania Center.
Philadelphia, PA 19102

Re: Harsimus Branch Line

Gentlemen:

In the past week, two emergencies took place on the Sixth Street portion of the Harsimus Branch Line which traverses downtown Jersey City. For your information, please see the attached police reports. While repairing track after the derailment, Conrail's construction crew dislodged heavy debris which fell to the street below. Fortunately, aside from damage to an automobile, no one was hurt. Nevertheless, the community is deeply troubled.

Today, two engineers on my staff walked the entire length of track from Henderson Street to Monmouth Street. These photos and field report, copies attached, describe dangerous conditions such as loose timbers, severely corroded structural members, failing retaining walls and numerous large and unprotected openings. These hazards may cause severe injury to pedestrians and motorists and/or property damage. This is also a liability issue which Conrail cannot ignore.

At the request of our City Council, I must inform you that this endangerment of our citizens cannot continue. At a minimum the following actions should be undertaken:

1. Of the seven original tracks, only one remains in operation. In the interest of public safety, remove or stabilize all superfluous structure. Remove all excess debris from bridge trestles.
2. Conduct an immediate inspection of all bridges crossing public rights-of-way by a licensed engineer. Forward copies of these inspections directly to the Municipal Engineer. Notify him immediately if a hazardous condition is identified. The New Jersey Bridge

72-00

Mr. Michael J. Regan

- 2 -

RECEIVED

5/11/92

The deteriorated timber decking, steel lateral bracing, and debris that is loose and can fall from the bridges will be stabilized or removed.

MAY 11 AM 10:33
CITY OF JERSEY CITY
ENGINEERING

The condition of the bridges and retaining walls will be monitored by inspection every 6 months.

Sincerely yours,

FDDay
F. D. Day, P.E.-N.J.
System Engineer-
Structures Maintenance

1634 Six Penn Center Plaza
Philadelphia, PA 19103

cc: ✓ Mr. Gerald J. Nissen, P.E.
Municipal Engineer
Division of Engineering
280 Grove Street
Jersey City, NJ 07302

Exhibit K-3

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Letter from Conrail to Construction Official of the City of Jersey City, dated May 11, 1992

CONRAIL®



RECEIVED
02 MAY 14 AM 10:33
CITY OF JERSEY CITY
ENGINEERING

92-008

May 11, 1992

Mr. Michael J. Regan
Construction Official
Department of Housing and
Economic Development
26 Journal Square - 4th Floor
Jersey City, NJ 07306

RE: Harsimus Branch Bridges

Dear Mr. Regan:

This is to confirm the inspection made on May 7, 1992,
of the bridges carrying Conrail's Harsimus Branch over
several streets in Jersey City.

In attendance were the following:

Ed Ciolko	-- Building Inspector, Jersey City
J. S. Richter, P.E.	-- Engineer-System Structures Inspection, Conrail
W. D. Linaberry	-- Assistant Division Engineer- Structures, Conrail

The following bridges were given a cursory inspection:

Undergrade Bridge	0.88	- Marin Boulevard
"	0.80	- Manila Street
"	0.71	- Erie Street
"	0.62	- Jersey Avenue
"	0.53	- Coles Street
"	0.44	- Monmouth Street
"	0.36	- Brunswick Avenue

These bridges were built for multiple tracks, but now
carry one active track. The bridges are structurally
sound and are adequate for the railroad traffic carried.

72-000

Mr. Michael J. Regan

- 2 -

RECEIVED

5/11/92

The deteriorated timber decking, steel lateral bracing, and debris that is loose and can fall from the bridges will be stabilized or removed.

MAY 11 AM 10:33
CITY OF JERSEY CITY
ENGINEERING

The condition of the bridges and retaining walls will be monitored by inspection every 6 months.

Sincerely yours,

FDDay
F. D. Day, P.E.-N.J.
System Engineer-
Structures Maintenance

1634 Six Penn Center Plaza
Philadelphia, PA 19103

cc: ✓ Mr. Gerald J. Nissen, P.E.
Municipal Engineer
Division of Engineering
280 Grove Street
Jersey City, NJ 07302

EXHIBIT L

Exhibit L

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Internal Jersey City Memorandum dated April 14, 1994 re: Conrail Marion Junction Project
89-032

CITY OF JERSEY CITY
Division of Engineering

Job No. _____
Date _____
By _____
Ch'd By _____

Sheet No. 1 of 1
Job _____
Subject _____

DATE: APRIL 14, 1994

TO: FILE

FROM: JOHN MUCHA, P.E., PRINCIPAL ENGINEER

SUBJECT: CONRAIL MARION JUNCTION
PROJECT NO. 89-032

The PASSAIC & HARSIMUS BRANCH WAS CONNECTED
TO THE NORTHERN BRANCH IN THE VICINITY OF THE
ST. PAUL'S AVENUE GRADE CROSSING ON WEDNESDAY
APRIL 13, 1994.

AN OFFICIAL RIBBON CUTTING CEREMONY WILL BE
HELD ON FRIDAY APRIL 22, 1994 AT 11 AM.

cc: file 92-008 ✓

EXHIBIT M

Exhibit M

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Internal Jersey City Memorandum dated March 29, 1994 re: Removal of Conrail 6th Street Viaduct Project No. 92-008

EXHIBIT N

Exhibit N

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

New Jersey Transit Hudson-Bergen Light Rail map (retrieved from http://www.njtransit.com/pdf/LightRail/sf_lr_hblr_map.pdf on May 8, 2014)



SYSTEM MAP
njtransit.com

HUDSON-BERGEN LIGHT RAIL

HUDSON-BERGEN
LIGHT RAIL



Legend

- Tonnelle Avenue - Hoboken Terminal (Weekdays Only)
- West Side Avenue - Tonnelle Avenue
- 8th Street - Hoboken Terminal
- Accessible Stations
- NJ TRANSIT Commuter Rail
- Meadowlands Rail Line
- Meatlands rail service operates for major events only. Visit njtransit.com for schedule information.
- PATH
- Connecting Bus Service
- Connecting Light Rail Service
- Connecting Rail Service
- Connecting Ferry Service (NY Waterway)
- Park & Ride Lots at Light Rail Station
- My Light Rail Station ID Numbers

NJ TRANSIT Information... (733) 275-5555
Toll-Free Phone... (800) 772-2287
Security Hot Line... (800) TIPS-NIT
Do report suspicious activities or packages daily - 24 hours/daily

Scale in Miles 0 1/2
July 2012
Map Background - Nantex

Connecting Bus Service to Light Rail Stations

PATH Legend

- North Jersey Station - South Plain Center
- South of Square - 20th St
- South of Square - 29th St
- South of Square - 34th St
- South of Square - 40th St
- South of Square - 46th St
- South of Square - 52nd St
- South of Square - 58th St
- South of Square - 64th St
- South of Square - 70th St
- South of Square - 76th St
- South of Square - 82nd St
- South of Square - 88th St
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- South of Square - 370th St
- South of Square - 376th St
- South of Square - 382th St
- South of Square - 388th St
- South of Square - 394th St
- South of Square - 400th St

Station Details:

- Tonnelle Ave** (NJ 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000)

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Now you can find out when the next train is arriving at stations all over New Jersey.

Simply call 973-275-5555 or text the station ID number to 69287 and you'll get the next scheduled trains to arrive at your station.

Find your station ID number at:
njtransit.com/mylightrail

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EXHIBIT O

Exhibit O

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Declaration of David B. Dixon, PLS, consisting of:

- Cover sheet filing document as Document ECF #82 in U.S. Dist. Ct. (D.C.); Docket CV-09-1900 (CKK)
- Declaration pages 1 through 12; paragraphs 1 through 20

Exhibit 11

In support of Intervenor-Defendants' opposition to Plaintiffs' Motion for Summary Judgment

Nature of Exhibit: Declaration of David B. Dixon, PLS

In the matter:

City of Jersey City et al. v. Consolidated Rail Corporation, et al.
C.A. No. 09-1900 (CKK)

Daniel E. Horgan, Esq.
Bar No. 239772
Waters, McPherson, McNeill, P.C.
300 Lighting Way
P.O. Box 1560
Secaucus, NJ 07096
(201) 863-4400

Counsel for Intervenor-Defendants - 212
Marin Boulevard, LLC; 247 Manila Avenue,
LLC; 280 Erie Street, LLC; 317 Jersey
Avenue, LLC; 354 Coles Street, LLC; 389
Monmouth Street, LLC; 415 Brunswick
Street, LLC; and 446 Newark Avenue, LLC

Dated: September 6, 2012

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CITY OF JERSEY CITY, <i>et al.</i>)
)
Plaintiffs)
)
v.)
)
CONSOLIDATED RAIL CORPORATION,)
)
Defendant, and)
)
212 MARIN BOULEVARD, LLC, <i>et al.</i> ,)
)
Defendants-Intervenors.)
)

C.A. No. 09-01900-CKK

DECLARATION OF DAVID B. DIXON

1. I have been a Licensed Surveyor and Professional Planner, licensed by the State of New Jersey since 1981. I am currently employed by Omland Engineering Associates, Inc., located at 54 Horse Hill Road, Cedar Knolls, New Jersey 07927, as Director of Surveying. I have personal knowledge of the facts stated herein and the Attachments to this Declaration.

2. I have been retained by the Defendants-Intervenors 212 Marin Boulevard, LLC; 247 Manila Avenue, LLC; 280 Erie Street, LLC; 317 Jersey Avenue, LLC; 354 Coles Street, LLC; 389 Monmouth Street, LLC; 415 Brunswick Street, LLC; and 446 Newark Avenue, LLC (the "LLCs") to perform an analysis and prepare graphic presentations of the location of former railroad lines and other features located in the downtown Jersey City, New Jersey area. These rail lines extended over several miles of track within what is now a densely populated and developed area and, as a consequence, large scale drawings which show the full scope of a line from beginning to end and are inadequate for some purposes as they would not adequately

present certain detailed information useful to a full understanding of certain facts in particular areas. Nor do large scale drawings serve well to show the differences in circumstance between 1976 when Conrail took title to those lands and the present conditions under which Conrail has sold off its holdings.

Methods Used

3. In order to establish a context for the location of rail lines I have relied upon three large scale aerial photos.

a. Aerial photography from Robinson Aerial Surveys of May 10, 1976, authenticated by a separate Exhibit of Robinson. This is a black and white photo taken shortly after Conrail acquired its properties. The lack of color contrast limits the ability to identify some detail, but it does show rail lines and facilities closest to Conrail's acquisition date. I refer to this as 1976 Robinson.

b. Aerial photography from Keystone Aerial Surveys of April 8, 1979, three years after Conrail's acquisition date. This photo is referred to as Keystone 1979 and provides higher contrast as it is in full color. I have compared the fixed physical features in both the 1976 and 1979 photos and they match in so far as the relevant railroad facility features are concerned. The later photo has a greater number of rail cars and it is easier to identify details in this photo than it is in the 1976 Robinson black and white photo. For that reason, in most cases I have relied upon this photo as my context photo for the location of historical features. This photo has been separately authenticated by Keystone.

c. Aerial photography from the State of New Jersey's Office of Information Technology network, specifically 5000' x 5000' "tiles" which are all or parts of tiles K6D15,

K6D14, K6D9, K6D10 and K6D13. These photographic sources are official documents of the State of New Jersey and are accepted as authentic and reliable for the purposes to which I have put them. This photo is identified as 2007 NJ OIT.

5. These three photos provide the base context for four Attachments to this Declaration, as follows:

Attachment A	Historic Conditions 1976 – 1979
Attachment B	Location of Rail Lines from CP Waldo 1976 – 1979.
Attachment C	Contested Rail Locations – 2007 / Present
Attachment D	River Line and Harsimus Branch at CP Waldo – 1979

6. In preparing these Attachments, the various sources of information were assembled into a series of Geographic Information System (“GIS”) document layers for each of the above four categories which enabled each source of geographic data to be located on the base photograph and examined to determine whether the various sources of information were consistent with what appeared in the photographs when viewed at the same scale. GIS technology enables the comparison of multiple layers of information in this fashion, and the comparison of those layers with each other separate from the base photograph. This ensures a greater degree of accuracy and the presentation of multiple sources of geographic information in a way that can be readily understood, and that quickly shows whether the information presented is consistent, and allowing conclusions to be drawn with greater confidence from that information. It also allows for measurements of specific distances to be taken and for points of reference to be utilized effectively.

7. In examining these Attachments, any layer of the Attachment can be examined at any scale by “zooming” in or out to increase or decrease the scale of the view, whether it is a

photo or information in any other layer, such as a survey. Also at any scale, multiple layers can be examined either in isolation or overlaid upon each other. The only case in which one layer obscures another is in the case of photos where the most recent photo is always on top covering any prior year photo. Any layer can be viewed or removed by using the check box which appears in the "Layers" panel of Adobe Acrobat on the left side of the screen when it is opened.

Sources of Information

8. The aerial photographs described above which were carefully examined to identify key features such as the Sixth Street Embankment and the location of features such as Waldo Avenue where CP Waldo is located, and the point on Marin Boulevard (formerly Henderson Street) where rail lines formerly intersected. The pictures represent the areas in question where Conrail rail lines were formerly located, and they depict those areas over a span of 31 years from 1976 to 2007. I have also examined accurate versions of Jersey City tax maps which were placed into the GIS versions of the Attachments. These allow for a quick reference between different photos for the identification of points and locations on each photo, such as streets, lot locations, and illustrating changes in property ownership patterns over time. I also received from counsel the following materials, among others, which were incorporated into my GIS analysis:

- a. Harsimus Branch conveyance maps from milepost 1.0 at the West shore of the Hudson River to a point in Harrison at milepost 7.0.
- b. Deeds to Conrail from Fairfax Leary, Trustee and descriptions in the US Railway Association Final System Plan for the Harsimus Branch (Line Code 1420), and the Hudson Street Industrial Track (Line Code 1440).

c. Maps filed by Conrail with the Surface Transportation Board (“STB”) concerning the location and potential abandonment of Line Code 1440, and the abandonment of a portion of Line Code 1420 running east from CP Waldo.

d. Hirth Weidener Associates survey dated May 7, 1985 showing railroad tracks across properties lying just to the North of Columbus Drive in the vicinity of the present Greene Street. This survey covers a gap between Conrail’s locations for Line Codes 1420 and 1440 which it does not connect in its STB filings.

e. Major Subdivision Map prepared by Lange Surveying and Planning dated May 1, 1988 and signed by Plaintiff Jersey City’s redevelopment agency, a number of private developers and Conrail. This survey confirms the location of the tracks depicted in the 1985 survey, which is also consistent with aerial photography in 1976 and 1979. It also shows a corridor owned by Conrail in which one track is located which is the only track connecting the area and tracks where Line Code 1440 begins with other Conrail property to the North where Conrail’s version of Line Code 1420 ends. These routings are confirmed by 1990 versions of the Jersey City tax maps which show Class I and Class 2 railroad properties along this routing.

f. I reviewed with counsel the positions of Conrail and of the City as to where and to what extent each of them identified locations for Lines 1420 and 1440.

g. I was also advised of the abandonment by the STB in 2001 of the River Line to CP Waldo and have located the routing of that line from various reliable sources as it ran close along the base of the Hudson River Palisades in Weehawken, Hoboken and Jersey City.

Analyses

9. From the foregoing I was tasked with analyzing all available information for purposes of accurately locating the current positions of the parties with respect to the locations of

certain rail lines over time, and accurately presenting that information in graphic form for the Special Court.

Harsimus Branch – Line 1420

10. As I understand the location of the Harsimus Branch there is no dispute that it ran from CP Waldo Easterly to and over the blocks of the Sixth Street Embankment to Henderson Street (now Marin Boulevard). The City takes no position as to where it may have run to the East of Henderson Street, except that it ran somewhere to receive and deliver freight. The City has also indicated, as I understand their position from counsel that Line 1440 connected with Line 1420 in the vicinity of the Embankment at Henderson Street, but that point of intersection is not the point described as the Easterly end point of Line 1420 in the deed and Final System Plan at milepost 1.0 at the Hudson River. From the City's position I cannot determine where Line 1420 ran to the East of Henderson Street and therefore have not been able to present any such information.

11. The position of Conrail is different. Conrail in its STB filing has indicated that the portion of the Harsimus Branch it wishes to abandon runs from milepost 0.0 at CP Waldo to a point 1.36 miles to the East. This point is illustrated as being in the vicinity of First Street to the East of Washington Boulevard, near the Northern end of Greene Street. The distance from CP Waldo, running along the Embankment, certainly puts the end point of Line 1420 somewhere to the East of Henderson Street, but for reasons discussed below I believe that this routing of track as presented by Conrail is part of Line 1440, not Line 1420. Also, it does not end at milepost 1.0 at the river as described in the deed which is an obvious inconsistency.

12. My analysis of the location of Line 1420 to the East of Henderson Street (now Marin Boulevard) as presented by the LLCs relies upon the track maps used in the conveyance to

Conrail and the distance of 6 miles from the end point in Harrison to the Hudson River. (Milepost 7.0 back to milepost 1.0). I did not rely upon the Plaintiffs' argument that CP Waldo is located at milepost 2.54 on the Harsimus track maps because I believe that to be in error. That milepost number would be correct if the distance were measured along the long abandoned Pennsylvania main line that ran from milepost 1.0 at Exchange Place. Pennsylvania Railroad mileposts seem to have begun at milepost 0.0 at the New York side of the river at a time when car floats were in operation and rail cars crossed the river to New York by that means. In any event, the Plaintiff's number cannot be verified by other means so I did not rely upon it.

13. However, an examination of the 1979 Robinson aerial photo clearly shows a continuation of the line that ran along the North side of the Sixth Street Embankment, which everyone agrees is Line 1420, almost directly Eastward along what is now an Easterly extension of Sixth Street into the Newport Development and out to the river on a long, solid-fill pier. That line, even though it has its own side tracks to the North side, runs to the North of what appears to have been a rail yard. The 1979 photograph also shows active use of the tracks east of Marin Boulevard. Many box cars, including twenty-eight connected cars, are visible on the peninsula. At the end, there appears to be an intermodal warehouse, where freight was transferred onto trucks. Further, close examination of the photo (magnified in the GIS assemblage) also shows overhead catenaries providing electric power along the length of the Embankment and along this line to its end at the river. While the catenaries also extend a limited distance South toward the Harsimus yard tracks, neither the yard tracks nor the through track around that yard and which Conrail sees as part of the other line, Line 1420 but which I believe is Line 1440 have catenaries. It is more likely that the track with the direct line to the river and with the same power source for electric locomotives from the Embankment to the River would be the same line of rail, Line

1420. The other line of rail, Line 1440, extending to the South is not electrified and the City maintains that it joins Line 1420 at or near the Embankment at Henderson Street (now Marin Boulevard).

14. This conclusion as to Line 1420 extending to the river as indicated in the deed is buttressed by the lack of viable alternatives visible in the 1976-1979 aerial photos, and assuming that the U.S. Railway Association's Final System Plan identified actual lines of rail in existence at the time. An examination of the only other through track (not a track entering the maze of tracks into what remained of the previous rail yards), illustrates that only other track through the Harsimus Yard was Line 1440, and not a continuation of Line 1420.

Hudson Street Industrial Track – Line 1440

15. The starting point for Line 1440 is not identified by the City, but it is clearly identified in both the Final System Plan and by Conrail. That point is at the vicinity of Warren and Essex Streets. From there it proceeds East, then North toward the former Railroad Avenue, now Christopher Columbus Drive. Conrail has it stopping there, but that was not the case. The survey and subdivision map (signed by Conrail for its property) both show that the rail continued to the North. Conrail shows this area of its subdivided ownership as a gap between what it claims was the Southern end of Line 1420 and the Northern terminus of Line 1440.

16. The principal reason why Conrail's gap is merely an omission of a portion of Line 1440 is that the Final System Plan described the line as being 1.30 miles long and the deed to Conrail had it terminating in the Harsimus Yard. Neither of those would be possible if it stopped roughly a half mile short of its 1.30 mile described length in the vicinity of Exchange Place. I have Line 1440 through the Harsimus Cove Yard based upon the following: (a) a detailed riparian map prepared by Hirth Weidener Associates, professional surveyors and planners, dated

May 7, 1985 clearly shows railroad tracks beginning at Hudson Street to the south and heading due north to First Street. The 1979 Keystone aerial photograph also shows tracks in the same area, which tracks were the only means of connecting the tracks on Hudson Street to the Harsimus Cove yard; (b) There is a major subdivision map prepared by Lange Surveying and Planning, dated May 1, 1988. This subdivision map was signed by private developers, the Jersey City Redevelopment Agency, and Conrail. The 1988 survey confirms the location of the tracks shown in the 1985 survey; (c) The official tax map of the City of Jersey City shows a section of tax exempt Class I railroad property beginning at Marin Boulevard and heading south-east through the location of the Harsimus Cove Yard, and ending at approximately the northernmost section of track shown in the 1985 survey. The 1979 aerial shows tracks in this corridor. These features are shown as individual layers on Attachment C.

Conclusions

17. From these analyses I have concluded what appear to be the locations for both Line 1420 East of Marin Boulevard / Henderson Street, and for Line 1440 running to the South of the former Harsimus Yards. Those are illustrated in **Attachment C**. The City has taken no specific position on these issues to my knowledge and I disagree with the positions of Conrail for the reasons stated. The positions of the Plaintiffs, Conrail and the LLCs are dramatically different in some areas as they pertain to properties lying to the East and South of the intersection of Henderson Street (Marin Boulevard) and Sixth Street. The different routings of the parties affect a number of different parties, although it is also obvious that some properties such as the building directly to the East of the Embankment was built over the site of either Line 1420 and 1440. Tax maps reflecting property transfers and ownership over the years indicate that there are multiple property owners for these former properties no matter which line is determined

to be the correct one. A review of the locations of the lines as layered over the various aerial photos shows the now complete abandonment of the area by the railroads and the presence in those former railroad areas with substantial commercial and residential development locations and projects.

18. My conclusions are further supported by the GIS analysis which was prepared at Omland Engineering under my direction and supervision. That analysis graphically illustrates in detail each of the foregoing facts and conclusions.

River Line at CP Waldo

19. I have prepared Attachment D at the request of counsel to illustrate in greater detail (smaller scale) the intersection of two rail lines at a point which I have determined to be approximately 750 feet along the arc of the rail as it existed in both 1976 and 1979 to the East of CP Waldo to a point where it split into the River Line and the line running to the Sixth Street Embankment. The 1976 and 1979 photos show only one track leading east from CP Waldo to this point. I have located the track in this Attachment D associated with the River Line from a review of areas to the North and the former rights of way over which the River Line ran from Weehawken and Hoboken to the North to confirm that that track has been properly identified as the River Line track. A description of the River Line is provided in an STB abandonment decision captioned In re Conrail Abandonment of the River Line—in Hudson County, NJ, which is a companion petition with In re Conrail Abandonment of the Weehawken Branch—in Hudson County, NJ, STB Docket Number AB-167 (Sub-No. 1067N) (decided March 12, 2001). The River Line began at CP Waldo and headed east then north. Based on the description of the River Line, the Harsimus Branch and the River Line occupied the same tracks for a distance of 750 feet between CP Waldo and the point where the lines diverged.

20. I am aware of the provisions of Title 28 of the United States Code, Section 1746, and I declare under penalty of perjury that the foregoing is true and correct.

Executed on: September 6, 2012

S/David B. Dixon

David B. Dixon, PLS

EXHIBIT O-1

Exhibit O-1

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Attachment A to Dixon Declaration*

*(Attachment A to the Dixon Declaration, is a layered PDF document as described in the Declaration. It is being provided to the Board in DVD format under separate cover)

Exhibit O-2

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Attachment B to Dixon Declaration*

*(Attachment B to the Dixon Declaration, is a layered PDF document as described in the Declaration. It is being provided to the Board in DVD format under separate cover)

Exhibit O-3

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Attachment C to Dixon Declaration*

*(Attachment C to the Dixon Declaration, is a layered PDF document as described in the Declaration. It is being provided to the Board in DVD format under separate cover)

EXHIBIT O-4

Exhibit O-4

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Attachment D to Dixon Declaration*

*(Attachment D to the Dixon Declaration, is a layered PDF document as described in the Declaration. It is being provided to the Board in DVD format under separate cover)

EXHIBIT P

Exhibit P

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Conrail's Notice of Intent to file for an Exemption for Abandonment and Discontinuance of Service STB Docket No. AB 167 Sub No. 1189X, dated March 6, 2008

CONRAIL



March 6, 2008



To: All Parties on Attached Service List

RE: Docket No. AB 167 (Sub-No. 1189X) **221808**
Consolidated Rail Corporation -- Abandonment
Exemption -- in Hudson County, New Jersey

Docket No. AB 55 (Sub-No. 686X) **221809**
CSX Transportation, Inc. -- Discontinuance
Exemption -- in Hudson County, New Jersey

Docket No. AB 290 (Sub-No. 306X) **221810**
Norfolk Southern Railway Company -- Discontinuance
Exemption -- in Hudson County, New Jersey

ENTERED
Office of Proceedings

MAR 12 2008

Part of
Public Record

On April 7, 2008, Consolidated Rail Corporation ("Conrail"), CSX Transportation, Inc. ("CSXT"), and Norfolk Southern Railway Company ("NS") expect to be filing with the Surface Transportation Board ("STB" or "Board") combined Notices of Exemption for abandonment (Conrail) and discontinuance of service (CSXT and NS) seeking authority to abandon portions of two railroad lines known as (1) the Harsimus Branch, between milepost 0.00± and milepost 1.36± and (2) the Hudson Street Industrial Track, between milepost 0.00± and milepost 0.72±, both in the city of Jersey City, Hudson County, New Jersey. Because of the proximity of the two lines, they are being included in the same application. Attached is an Environmental and Historic Report describing the proposed action and any expected environmental and historic effects, as well as a map of the affected area.

Conrail is providing this report so that you may review the information that will form the basis for the STB's independent environmental analysis of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the Board's environmental review process, please contact the Section of Environmental Analysis ("SEA"), Surface Transportation Board, 395 E Street, SW, Washington, DC 20423, telephone number (202) 245-0295 and refer to the above Docket No. AB 167 (Sub-No. 1189X). Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments to SEA (with a copy to Conrail's representative named below) would be appreciated within three weeks.

Your comments will be considered by the Board in evaluating the environmental and/or historic preservation impacts of the contemplated action. If there are any questions concerning this proposal, please contact Conrail's representative directly. Conrail's representative in this matter is John K. Enright, who may be contacted by

telephone at (856) 231-7206 or by mail at 1000 Howard Boulevard, 4th Floor, Mt. Laurel, NJ 08054.

Sincerely,

John K. Enright /rbd

John K. Enright
Associate General Counsel
1000 Howard Boulevard, 4th Floor
Mt. Laurel, NJ 08054

Enclosures

SERVICE LIST

Anne K. Quinlan, Secretary
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Bradley M. Campbell, Commissioner
State Historic Preservation Office
NJ Department of Environmental Protection
401 East State Street, P.O. Box 404
Trenton, NJ 08625-0404

Robert B. Piel, Jr., Manager
NJ Dept. of Environmental Protection
Bureau of Inland Regulation
401 East State Street, 7th Floor
P.O. Box 402
Trenton, NJ 08625-0402

Kenneth C. Koschek, Supervising Environmental Specialist
NJ Department of Environmental Protection
Office of Permit Coordination & Environmental Review
401 East State Street
P.O. Box 423
Trenton, NJ 08625-0423

Thomas A. DeGise, County Executive
Justice Brennan Court House
583 Newark Avenue
Jersey City, NJ 07306

The District Engineer
U.S. Army Engineer District, New York
Jacob K. Javits Federal Building
26 Federal Plaza, Room 2109
New York, NY 10278-0090

U.S. Fish & Wildlife Service
New Jersey Field Office
927 North Main Street
Heritage Square, Building D
Pleasantville, NJ 08232

U.S. Environmental Protection Agency
Region 2
290 Broadway
New York, NY 10007-1866

Richard Snay, Chief
Simon Monroe (N/NGS12)
Spatial Reference System Division
National Geodetic Survey
1315 East-West Highway
Silver Spring, MD 20910-3282

U.S. Department of the Interior
National Park Service
Chief, Recreation Resources Assistance Division
1849 C Street, NW
Room 3129
Washington, DC 20240

Stephen D. Marks, Director
Hudson County Planning Division
Justice Brennan Court House
583 Newark Avenue
Jersey City, NJ 07306

State Conservationist
Natural Resources Conservation Service
220 Davidson Avenue, 4th Floor
Somerset, NJ 08873-4115

Bradley M. Campbell, Commissioner
NJ Department of Environmental Protection
401 East State Street
P.O. Box 402
Trenton, NJ 08625-0402

New Jersey State Clearinghouse
State Review Process
Office of the Governor
P.O. Box 001
Trenton, NJ 08625-0001

Bob Korpanty
Department of Defense - MTMCTEA
Attn: Railroads for National Defense
720 Thimble Shoals Boulevard, Suite 130
Newport News, VA 23606-2574

U.S. Department of the Interior
National Park Service
Chief, Land Resources Division
1849 C Street, NW
Room 3120
Washington, DC 20240

Gail Kimbell, Chief
USDA Forest Service
Sidney R. Yates Federal Building
1400 Independence Avenue, SW
Washington, DC 20250-0003

Kris Kolluri, Commissioner
New Jersey Department of Transportation
1035 Parkway Avenue
CN-600
Trenton, NJ 08625

D. C. Agrawal, Assistant Executive Director
Corporate Strategy, Policy, and Contracts
NJ TRANSIT
One Penn Plaza East
Newark, NJ 07105-2246

Regional Director
National Park Service – Northeast Region
U. S. Custom House
200 Chestnut Street, 5th Floor
Philadelphia, PA 19106

Mayor Jerramiah T Healy
City Hall – 280 Grove Street
Jersey City, NJ 07302

Victoria J. Rutson, Chief
Section of Environmental Analysis
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423

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

CONSOLIDATED RAIL CORPORATION – ABANDONMENT EXEMPTION – IN
HUDSON COUNTY, NEW JERSEY

STB NO. AB 55 (SUB-NO. 686X)

CSX TRANSPORTATION, INC. – DISCONTINUANCE EXEMPTION – IN HUDSON
COUNTY, NEW JERSEY

STB NO AB 290 (SUB-NO. 306X)

NORFOLK SOUTHERN RAILWAY COMPANY – DISCONTINUANCE
EXEMPTION – IN HUDSON COUNTY, NEW JERSEY

NOTICES OF EXEMPTION

ENVIRONMENTAL AND HISTORIC REPORT

Consolidated Rail Corporation (“Conrail”), CSX Transportation, Inc. (“CSXT”), and Norfolk Southern Railway Company (“NS”) (collectively, “Applicants”) submit this Environmental and Historic Report in accordance with 49 C.F.R. §§ 1105.7 & 1105.8. Applicants have fulfilled the requirements of sections 1105.7 and 1105.8 that they consult specified public agencies by sending letters to such agencies and requesting comments on the effect of this action on the environment and on matters of historic preservation concern. Copies of the letters and all responses Applicants have received to date are attached to this Report. Any responses received in the future will be promptly furnished to the Board.

ENVIRONMENTAL

1. **Proposed Action and Alternatives.** Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

1. The proposed action is abandonment (Conrail) and discontinuance of service (CSXT and NS) of portions of two lines of railroad known as (1) the Harsimus Branch, from approximately milepost 0.00± to approximately milepost 1.36±, and (2) the Hudson Street Industrial Track, from approximately milepost 0.00± to approximately milepost 0.72±, both in the city of Jersey City, Hudson County, New Jersey, traversing United States Postal Service Zip Codes 07302 and 07306 (the "Lines"). Because of the proximity of the two lines, they are being included in the same application. Applicants expect to file combined Notices of Exemption to abandon and discontinue service on these lines on or after April 7, 2008. As the subject lines have been out of service for more than two years, no commodities are transported on the lines and no changes in current operations or maintenance practices will result from the proposed action. Applicants have no plans to dispose of the structures on the line; track, track material, and crossties have previously been removed. The only reasonable alternative is that of no action. A detailed map is attached as Exhibit "A".

2. **Transportation System.** Describe the effects of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

2. The subject lines are out of service and are used for no freight or passenger service. Consequently, the proposed abandonment will have no effect upon regional or local transportation systems and patterns and will cause no diversion of passengers or freight to other transportation systems or modes.

3. **Land Use.** (i) Based on consultation with local and/or regional planning agencies and/or a review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with the existing land use plans. Describe any inconsistencies. (ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agricultural land. (iii) If the action affects land or water uses within a designated coastal zone, include the coastal zone information required by § 1105.9. (iv) If the proposed action is an abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. 10905 and explain why.

3. (i) The County Executive for Hudson County, the Director of the Hudson County Planning Division, and the Mayor of Jersey City have been consulted in this regard. Applicants wrote to these agencies on February 7, 2008 to request that they comment on the proposed abandonment. In its response dated March 3, 2008, the Planning Director for the Department of Public Resources for Hudson County identified two prior land use plans for the subject lines, (1) "as a potential corridor for transportation alternative "R2" and (2) "as the locally preferred alternative through downtown Jersey City for the proposed East Coast Greenway." The National Geodetic Survey ("NGS") has also been consulted in this regard. Applicants wrote to this agency on February 7, 2008 to request that it comment on the proposed abandonment. Upon receipt of any response, Applicants will forward same to the Board.

(ii) The United States Soil Conservation Service, now renamed the Natural Resources Conservation Service ("NRCS"), has been consulted in this regard. Applicants wrote to this agency on February 7, 2008 to request that it comment on the proposed abandonment. Upon receipt of any response, Applicants will forward same to the Board.

(iii) The New Jersey Department of Environmental Protection ("NJDEP") - Office of Permit Coordination and Environmental Review, has been consulted in this regard. Applicants wrote to this agency on February 7, 2008 to request that it comment on the proposed abandonment. Upon receipt of any response, Applicants will forward same to the Board. The NJDEP – Bureau of Inland Regulation, has also been consulted in this regard. Applicants wrote to this agency on February 7, 2008 to request that it comment on the proposed abandonment. Upon receipt of any response, Applicants will forward same to the Board.

(iv) See response to 3(i) above.

4. Energy. (i) Describe the effect of the proposed action on transportation of energy resources. (ii) Describe the effect of the proposed action on recyclable commodities. (iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why. (iv) If the proposed action will cause diversions from rail to motor carriage of more than (A) 1,000 rail carloads a year; or (B) an average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in energy consumption and show the data and methodology used to arrive at the figure given.

4. Because the subject lines are out of service and have handled no local or overhead traffic during the last two years, the proposed abandonment will not affect transportation of energy resources or recyclable commodities, will not result in an increase or decrease in overall energy efficiency, and will cause no traffic diversion from rail to motor carriage.

5. Air. (i) If the proposed action will result in either: (A) An increase in rail traffic of at least 100 percent (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of rail line affected by the proposal, or (B) An increase in rail yard activity of at least 100 percent (measured by carload activity), or (C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions. For a proposal under 49 U.S.C. 10901 (or 10505) to construct a new line or reinstitute service over a previously abandoned line, only the eight train a day provision in subsection (5) (i)(A) will apply. (ii) If the proposed action affects a class I or non-attainment area under the Clean Air Act, and will result in either: (A) An increase in rail traffic of at least 50 percent (measured in gross ton miles annually) or an increase of at least three trains a day on any segment of rail line, (B) An increase in rail yard activity of at least 20 percent (measured by carload activity), or (C) An average increase in truck traffic of more than 10 percent of the average daily traffic or 50 vehicles a day on any given road segment, then state whether any expected increased emissions are within the parameters established by the State Implementation Plan. (iii) If transportation of ozone depleting material is contemplated, identify the materials and quantity, the frequency of service, safety practices, the applicant's safety record on derailments, accidents and spills, contingency plans to deal with accidental spills, and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

5. Because the subject lines are out of service and have handled no traffic within the past two years, the proposed abandonment will cause no increase or decrease

in rail or motor carrier traffic and will have no impact upon air quality. The proposed action will not affect the transportation of ozone depleting material.

6. **Noise.** If any of the thresholds identified in Item (5) are surpassed, will the proposed action cause (i) An incremental increase in noise levels of three decibels Ldn or more; or (ii) An increase to a noise level of 65 decibels Ldn or greater. If so, identify sensitive receptors (e.g., schools, libraries, hospitals, residences, retirement communities, and nursing homes) in the affected area, and quantify the noise increase for these receptors if the thresholds are surpassed.

6. Inapplicable because none of the thresholds identified in Item (5) is surpassed.

7. **Safety.** (i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings). (ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials. (iii) If there are any known hazardous waste site or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

7. (i) Because the subject lines are out of service and have handled no traffic within the past two years, public health and safety will not be affected by the proposed action.

(ii) No hazardous materials will be transported as a result of the proposed abandonment.

(iii) Applicants are aware of no hazardous waste sites or hazardous materials spills on the right-of-way.

8 **Biological Resources.** (i) Based on consultation with the U.S Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects. (ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects

8. (i) Conrail is aware of no endangered species or area designated as a critical habitat likely to be adversely affected by the proposed abandonment. The United States Fish and Wildlife Service has been consulted in this regard. Applicants wrote to this agency on February 7, 2008 to request that it comment on the proposed abandonment. Upon receipt of any response, Applicants will forward same to the Board. The National Park Service has also been consulted in this regard. Applicants wrote to this agency on February 7, 2008 to request that it comment on the proposed abandonment. Upon receipt of any response, Applicants will forward same to the Board.

(ii) Conrail is aware of no wildlife sanctuary or refuge or National or State park or forest likely to be adversely affected by the proposed abandonment. The United States Fish and Wildlife Service has been consulted in this regard. Applicants wrote to this agency on February 7, 2008 to request that it comment on the proposed abandonment. Upon receipt of any response, Applicants will forward same to the Board. The National Park Service has also been consulted in this regard. Applicants wrote to this agency on February 7, 2008 to request that it comment on the proposed abandonment. Upon receipt of any response, Applicants will forward same to the Board.

9. Water. (i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable federal, state, or local water quality standards (usually applicable only in the context of rail line construction application and abandonments that will require in-stream salvage operations), and describe any inconsistencies. (ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under section 404 of the Clean Water Act (33 U.S.C. 1344) are required and whether any designated wetlands or 100-year flood plains will be affected, and describe any effects. (iii) State whether permits under section 402 of the Clean Water Act (33 U.S.C. 1342) are required for the proposed action.

9. (i) No in-stream salvage operations will be required, and Conrail is aware of no inconsistency of the proposed action with applicable federal, state, and local water quality standards. The New Jersey Department of Environmental Protection ("NJDEP") has been consulted in this regard. Applicants wrote to this agency on February 7, 2008 to request that it comment on the proposed abandonment. Upon receipt of any response, Applicants will forward same to the Board.

(ii) The proposed abandonment does not contemplate removal of the rail, track material, and cross ties, as the rail and ties of both lines have previously been removed, and no clearing, grading, or alteration of the topography will result from the abandonment. No dredging or discharge of dredge or fill materials into navigable waters will be involved, and therefore no permits will be required under Section 404 of the Clean Water Act (33 U.S.C. 1344). The proposed abandonment will have no effect upon designated wetlands or 100-year flood plains. The U.S. Army Corps of Engineers ("Corps") has been consulted in this regard. Applicants wrote to this agency on February 7, 2008 to request that it comment on the proposed abandonment. Upon receipt of any response, Applicants will forward same to the Board.

(iii) The abandonment will not result in the discharge of any pollutant which would require a permit under Section 402 of the Clean Water Act (33 U.S.C. 1342). The question of permitting in New Jersey under Section 402 has been delegated to the NJDEP. Applicants wrote to this agency on February 7, 2008 to request that it comment on the proposed abandonment. Upon receipt of any response, Applicants will forward same to the Board. The U.S. Environmental Protection Agency has also been consulted in this regard. Applicants wrote to this agency on February 7, 2008 to request that it comment on the proposed abandonment. Upon receipt of any response, Applicants will forward same to the Board.

10. **Proposed Mitigation.** Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

10. **Inapplicable, in that there are no adverse environmental impacts.**

HISTORIC

Pursuant to 49 C.F.R. § 1105.8, Conrail provides the following report on specified historic matters.

Proposed Action and Alternatives.

The proposed action and alternatives are described in Item 1 of the Environmental section of this report.

1. **Map.** Attach a U.S.G.S. topographic map (or an alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of railroad structures that are 50 years old or older and are part of the proposed action.

1. A map of the subject lines is attached as Exhibit "A".

2. **Description of Right-of-Way.** A written description of the right-of-way (including approximate widths, to the extent known), and the topography and urban and/or rural characteristics of the surrounding area.

2. The right-of-way proposed for abandonment is located in city of Jersey City, Hudson County, New Jersey, traversing United States Postal Service Zip Codes 07302 and 07306. It extends from (1) the Harsimus Branch, from approximately milepost 0.00± to approximately milepost 1 36±, and (2) the Hudson Street Industrial Track, from approximately milepost 0.00± to approximately milepost 0.72± The right-of-way varies between 50 and 100 feet wide throughout the line. The topography of the surrounding area is flat, as shown on the topographic map as Exhibit "A". The lines are located in an urban residential/commercial/industrial area.

3. **Photographs.** Good quality photographs of railroad structures on the property that are 50 years old or older and of the immediately surrounding area.

3. Photographs of the structures, as further described in response no. 4 below, are attached.

4. Construction Dates. The date(s) of construction of the structure(s), and the date(s) and extent of any major alteration, to the extent such information is known.

4. There are no existing undergrade bridges located along these lines. However, historically, an elevated portion of the Harsimus Branch consisted of an undergrade bridge that traversed several street intersections. While the bridge no longer exists, some of the bridge supports are standing. Another elevated portion of the Harsimus Branch was supported by an embankment, which now consists of six blocks of embankment structures (collectively, the "Embankment"). The Embankment was further supported by stone walls constructed approximately 1912. The bridges that connected the Embankment were built between 1896 and 1900. The bridges consisted of multiple spans, all of which were removed in 1965 and were replaced with a one track span between MP 0 15 and MP 0 36. This replacement span was removed in 1994. Photographs of these structures are attached.

5. Carrier Operations. A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action.

5. The subject lines were used for rail freight operations. However, the lines are out of service and have handled no traffic within the past two years. Accordingly, no change in operations is contemplated as a result of the proposed action.

6. Summary of Documents. A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is found to be historic.

6. Applicants have approximately 600 microfiche cards containing engineering drawings for the structures that were on the lines.

7. Opinion regarding historical matters. An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. 60.4) and whether there is a likelihood of archeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultation with the State Historic Preservation Office, local historical societies or universities).

7. In its response dated March 3, 2008, the Planning Director for the Department of Public Resources for Hudson County stated that the "NJ Department of Environmental Protection's Historic Preservation Office has identified a swath of downtown Jersey City, including the railroad lines, as the 'Harsimus Cove Historic District' (ID #1509). The District was deemed eligible for the National Register of Historic Places on 12/9/1987 (NR Reference #87002118) and on the State Register dated 10/15/87." This response also stated that the "N.J. Department of Environmental Protection's Historic Preservation Office placed the 'Pennsylvania Railroad Harsimus Branch Embankment' (ID #131) on the State Register of Historic Places on 12/29/1999. A Certification of Eligibility (COE) was issued by SHPO on 12/17/1999. A Determination of Eligibility (DOE) was issued by SHPO on 3/16/2000." The Embankment has also been given landmark status by the City of Jersey City. Applicants do not believe there is a likelihood of archeological resources or any other previously unknown historic properties on the subject lines. The bases for these opinions are the absence of any document in Conrail's possession indicating that the site or any structure, other than those identified above, meet historical criteria or that there is a likelihood that archeological resources or other previously unknown historic properties exist on the line, and on-site inspection of the subject line conducted by Conrail field engineers on November 20, 2007. The New Jersey State Historic Preservation Office has been consulted in this regard. Applicants wrote to this agency on February 7, 2008 to request that it comment on the proposed abandonment. Upon receipt of any response, Applicants will forward same to the Board.

8. Description of certain matters. A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental condition (naturally occurring or man-made) that might

affect the archeological recovery of resources (such as swampy condition or the presence of toxic wastes), and the surrounding terrain.

8. Based on readily available information in its possession, Conrail is aware of no prior subsurface ground disturbance or fill or environmental conditions (naturally occurring or man-made) that might affect the archeological recovery of resources. In connection with a proposed redevelopment of the property surrounding and including the Embankment, soil sampling and analysis was conducted in 2005 which concluded that any detected contamination can be designated as "Historic Fill" type contamination. The New Jersey State Historic Preservation Office has been consulted in this regard. Applicants wrote to this agency on February 7, 2008 to request that it comment on the proposed abandonment. Upon receipt of any response, Applicants will forward same to the Board.



Begin Milepost 0.00

**HARSIMUS BRANCH
LINE CODE 1420**

End Milepost 1.36

**EMBANKMENT
LIMITS
(SEGMENTED AT
CROSS STREETS)**

Begin Milepost 0.00

End Milepost 0.72

**HUDSON STREET I.T.
LINE CODE 1440**

**LIBERTY
STATE PARK**

**ANTICIPATED LINE ABANDONMENT
HARSIMUS BRANCH
HUDSON STREET I.T.**

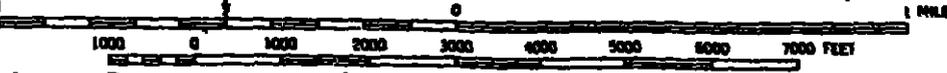
■■■■■ ANTICIPATED ABANDONMENT

**EXHIBIT "A"
1 of 2**

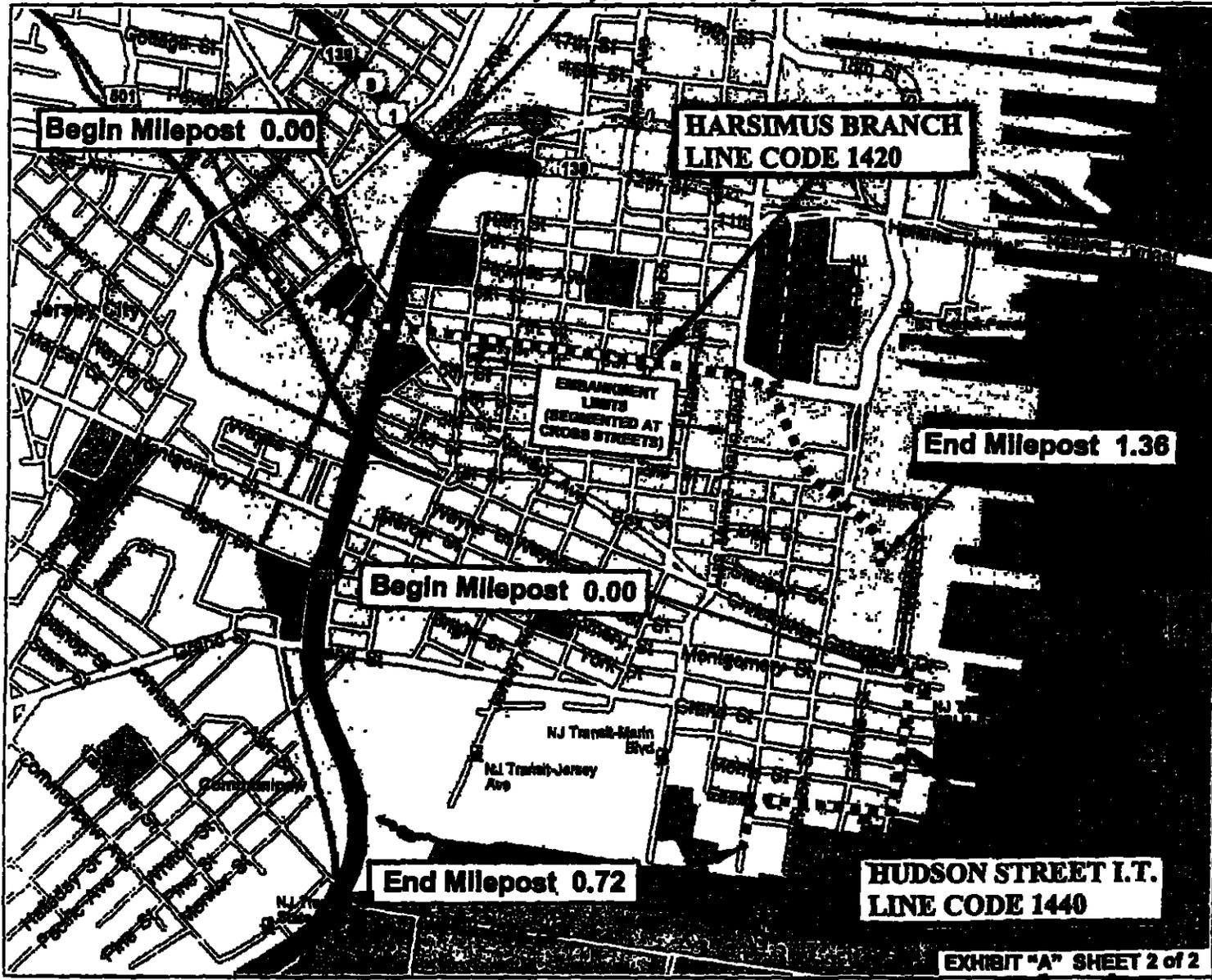
JERSEY CITY, N.J. - N.Y.
N4037.5—W7400/7 5

1967
PHOTOREVISED 1981
DMA 8165 II NE—SERIES Y822

SCALE 1:24000



Jersey City, New Jersey

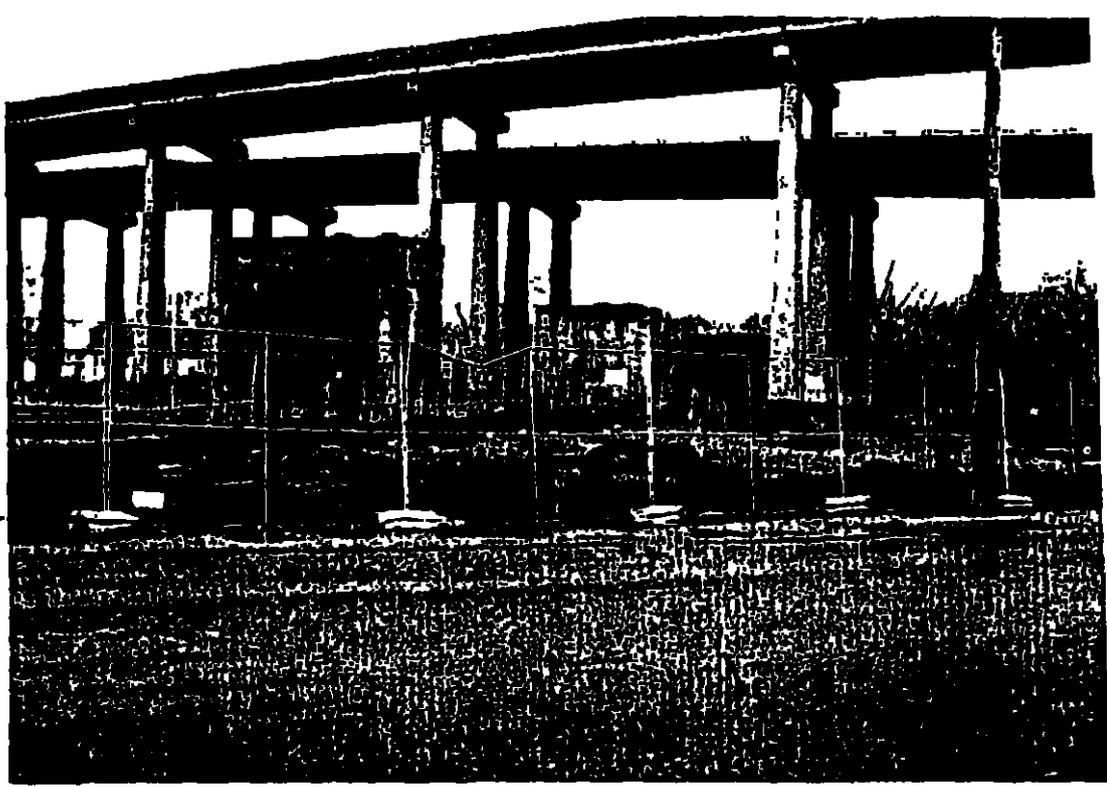


000232

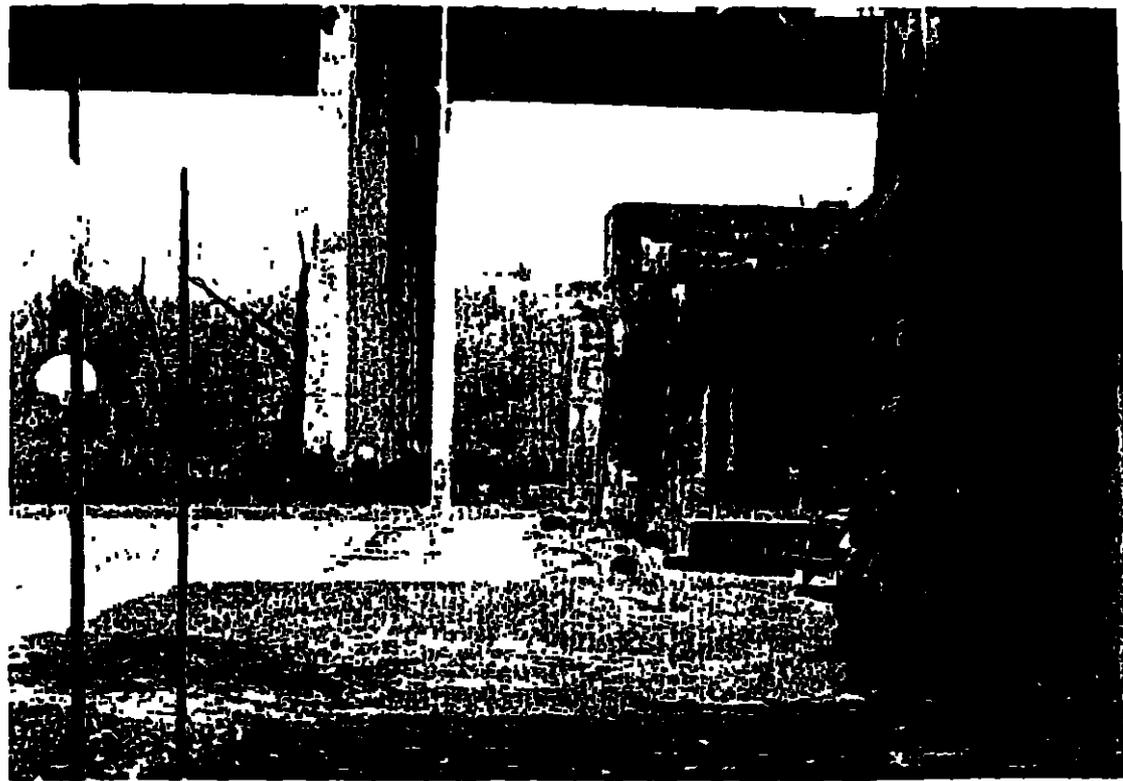
0 mi 0.2 0.4 0.6 0.8

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© Copyright 2002 by Geographic Data Technology, Inc. All rights reserved. © 2002 Navigational Technologies. All rights reserved. This data includes information taken with permission from Canadian authorities © 1991-2002 Government of Canada (Statistica Canada and/or Geomatics Canada), all rights reserved.

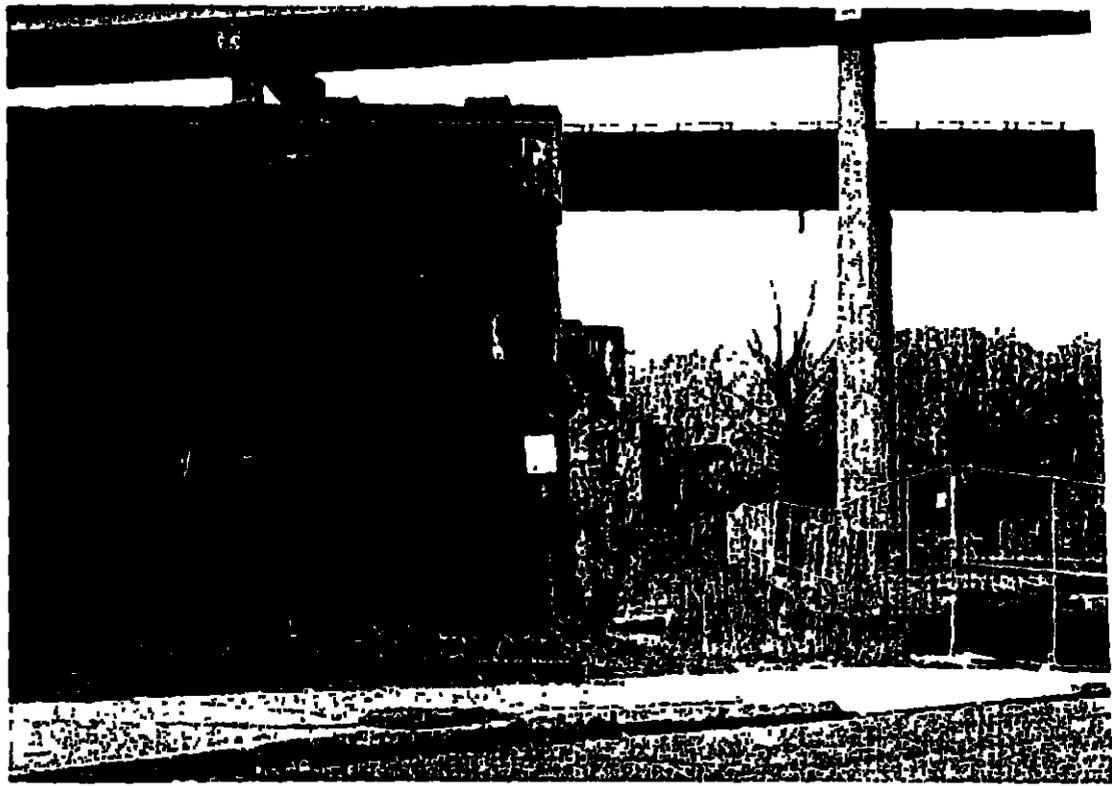
DISTANT SHOT
OF LEFTOVER
PIERS FOR
MP 0.21 VIADUCT-
LOOKING WEST
FROM NEWARK AVE.



CLOSE-UP OF
PIERS LOOKING
WEST FROM
NEWARK AVE.
MP 0.21
FROM SOUTH SIDE



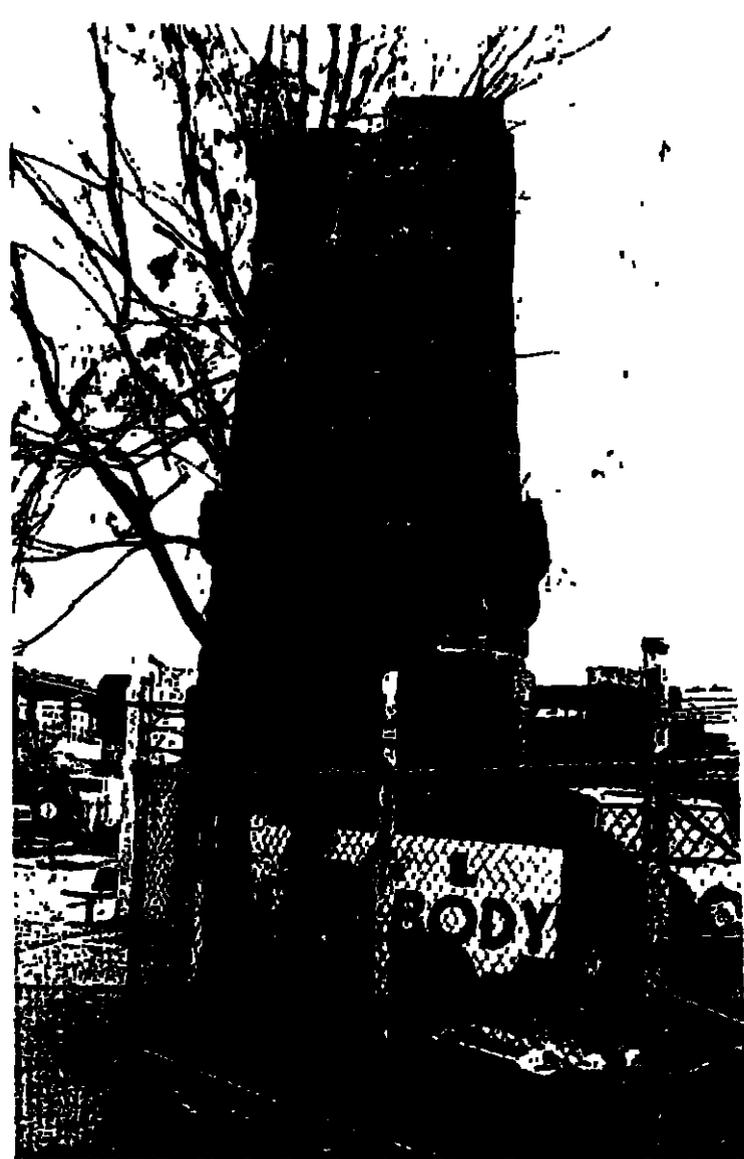
CLOSE-UP OF PIERS
LOOKING WEST
FROM NEWARK AVE.
MP 0.21
FROM NORTH SIDE



FRONT VIEW OF
PIER @ NEWARK AVE.
MP 0.27
FACING EAST



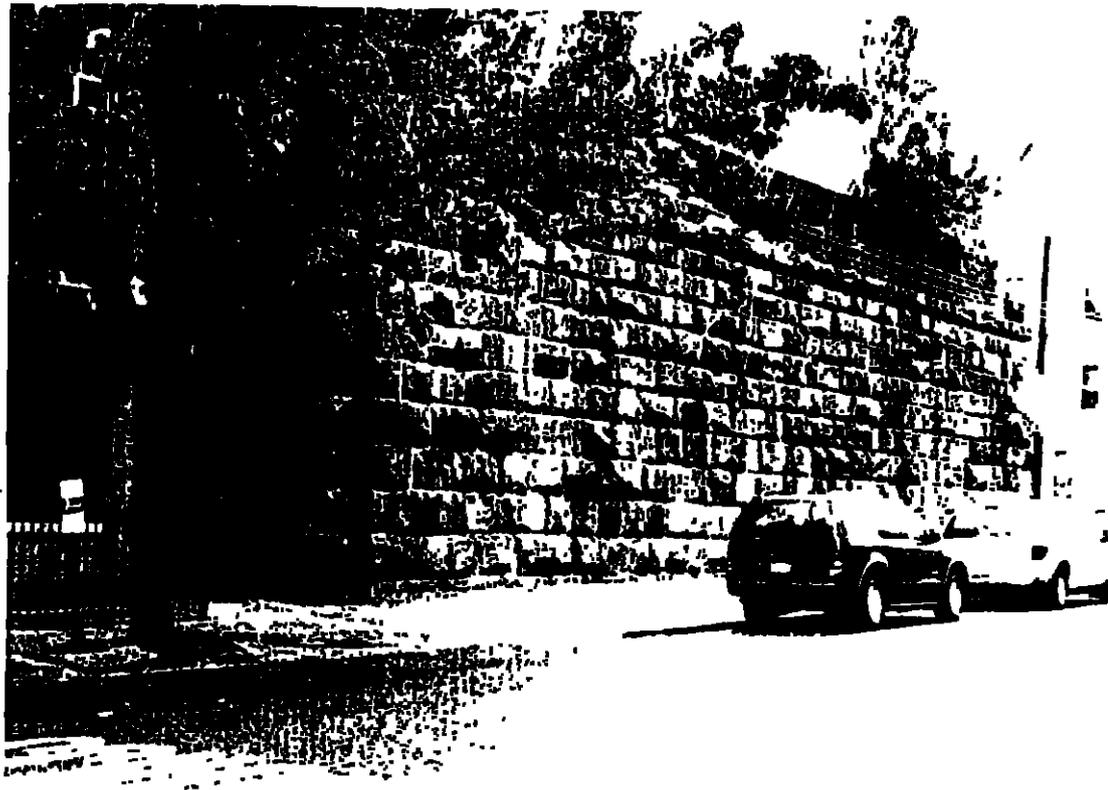
SIDE VIEW OF
PIER @ NEWARK AVE.
MP 0.27
FACING NORTH



ABUTMENT ON EAST
SIDE OF BRUNSWICK AVE.
MP 0.36
FACING EAST
(NO ABUTMENT
ON WEST SIDE)



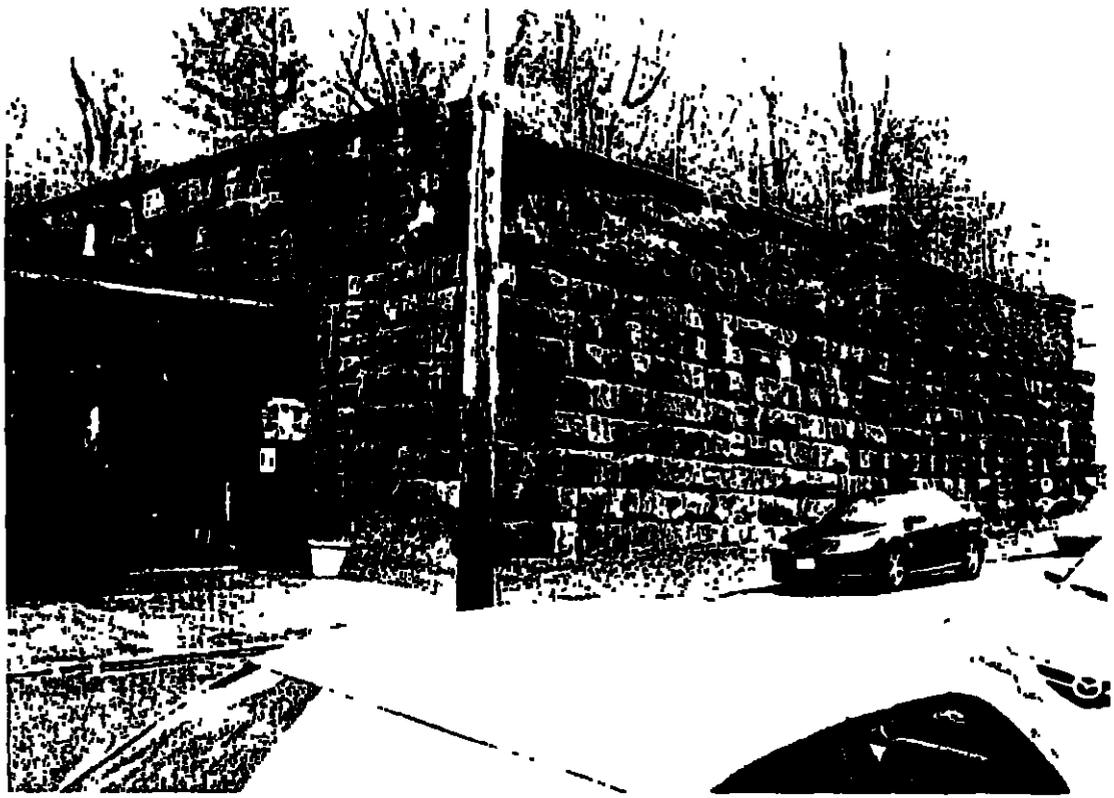
WEST SIDE
ABUTMENT AT
MONMOUTH ST.
MP 0.44



EAST SIDE
ABUTMENT AT
MONMOUTH ST.
MP 0.44



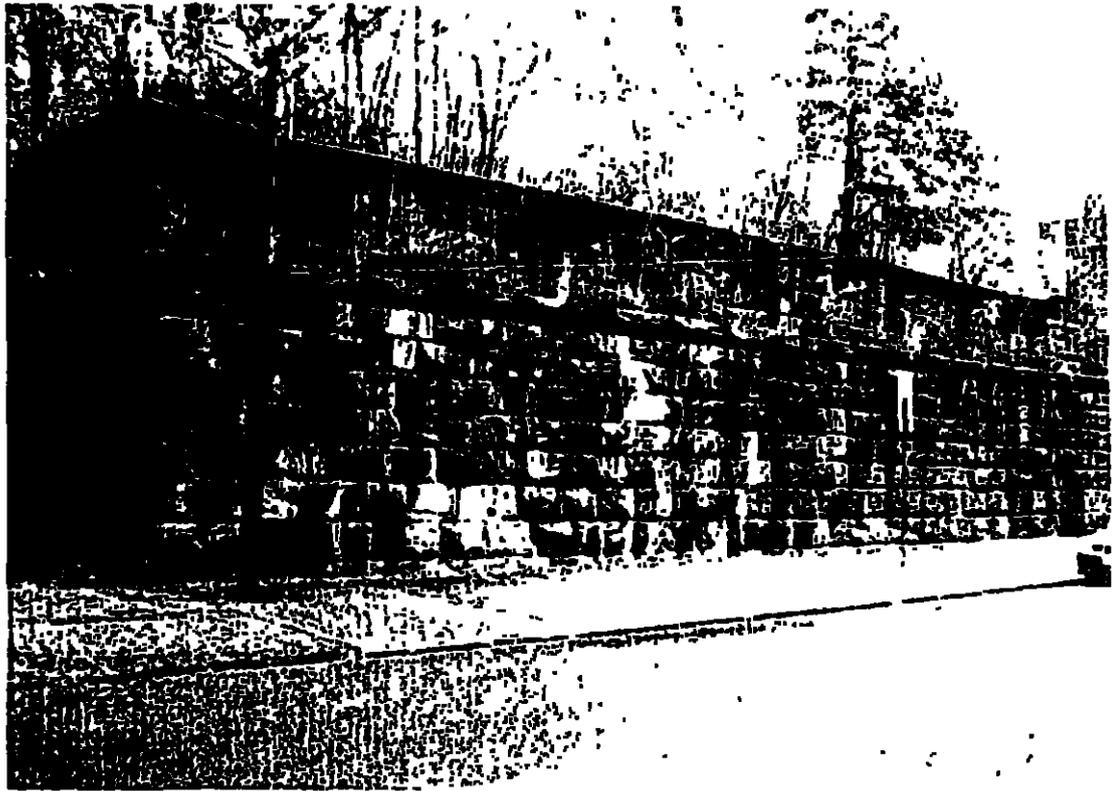
WEST SIDE
ABUTMENT AT
COLES ST.
MP 0.53



EAST SIDE
ABUTMENT AT
COLES ST.
MP 0.53



WEST SIDE
ABUTMENT AT
JERSEY AVE.
MP 0.62



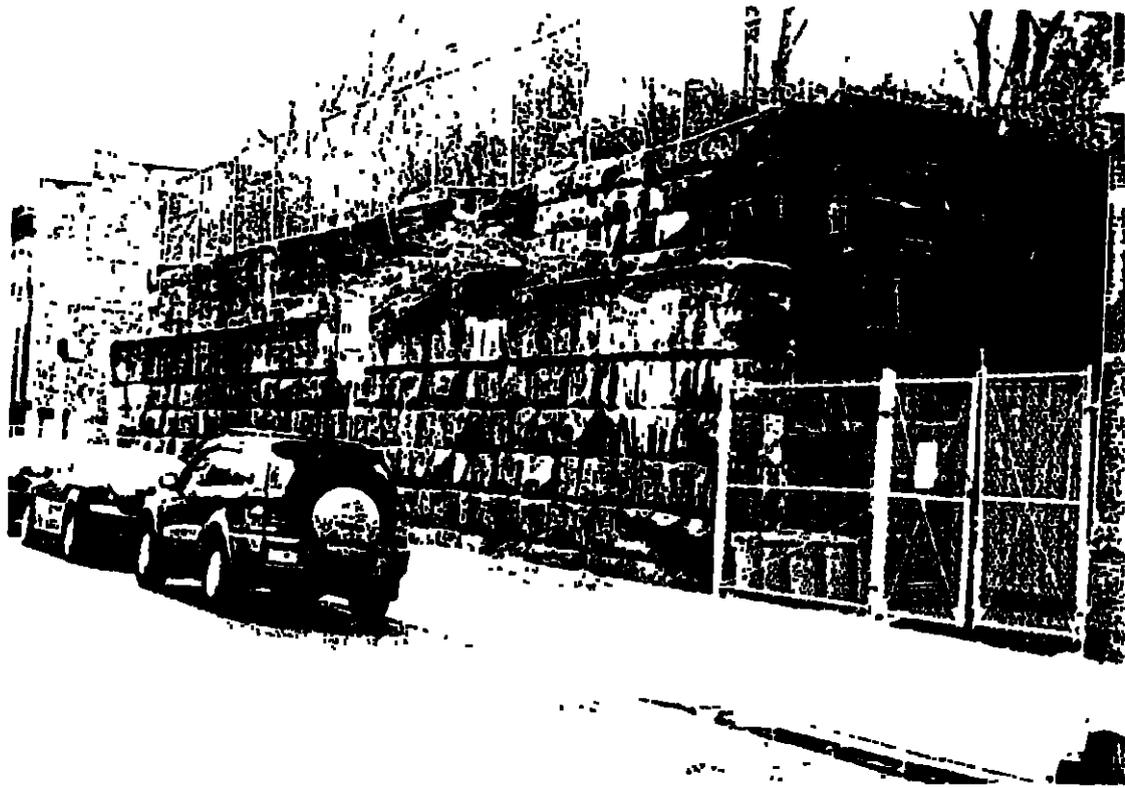
EAST SIDE
ABUTMENT AT
JERSEY AVE.
MP 0.62



WEST SIDE
ABUTMENT AT
ERIE ST.
MP 0.71



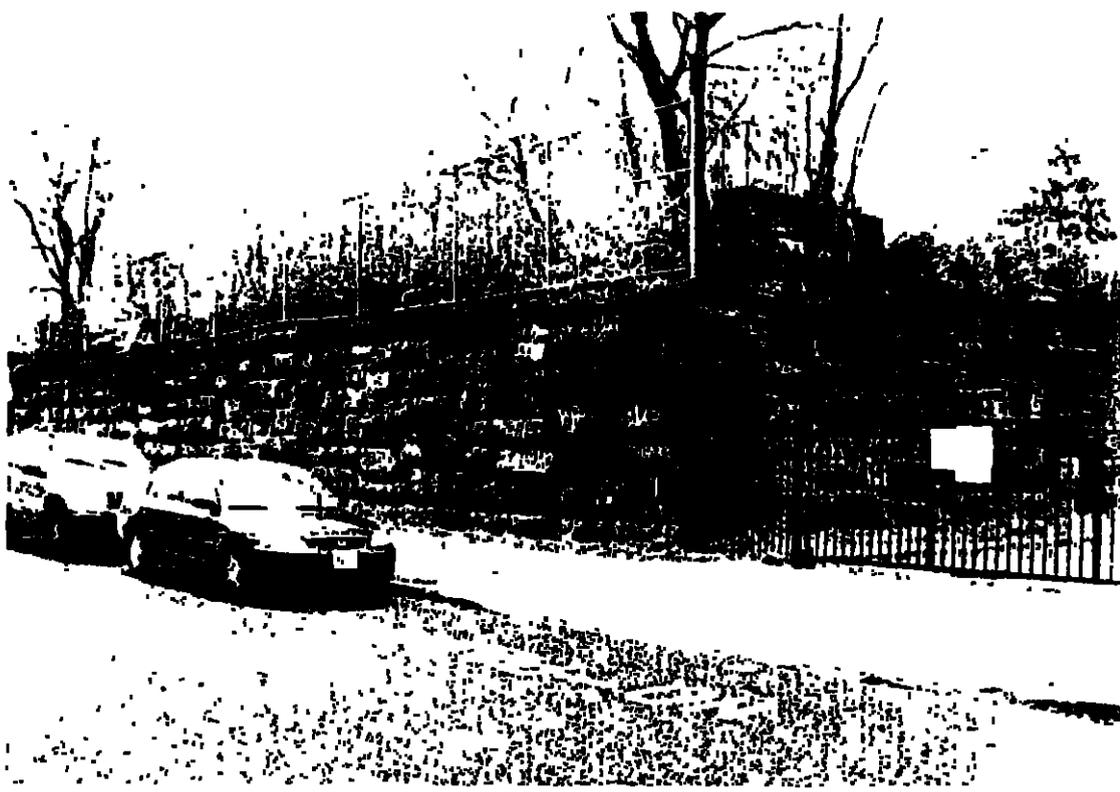
EAST SIDE
ABUTMENT AT
ERIE ST.
MP 0.71



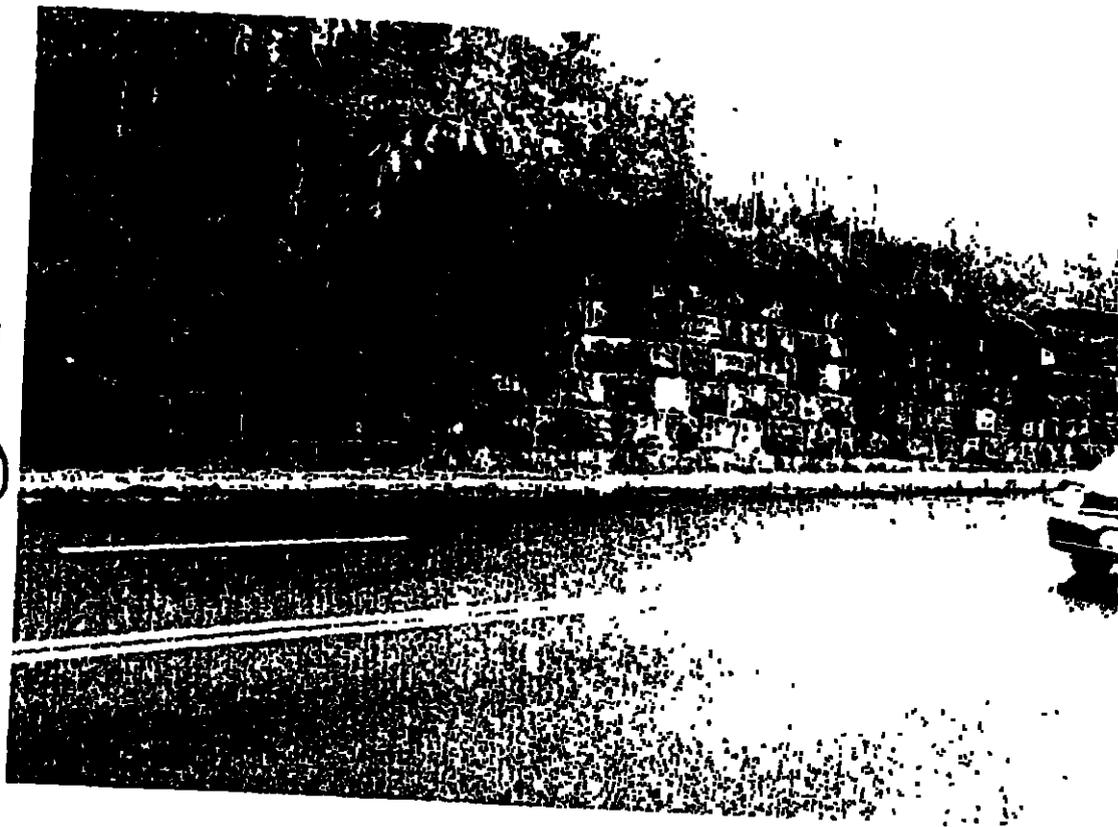
WEST SIDE
ABUTMENT AT
MANILA AVE.
MP 0.80



EAST SIDE
ABUTMENT AT
MANILA AVE.
MP 0.80



WEST SIDE
ABUTMENT AT
MARIN BLVD.
MP 0.88
(NO EAST SIDE
ABUTMENT -
NOW BED,
BATH & BEYOND)





COUNTY OF HUDSON
DEPARTMENT OF PUBLIC RESOURCES
DIVISION OF PLANNING
BRENNAN COURT HOUSE
583 NEWARK AVENUE
JERSEY CITY, NEW JERSEY 07306
WWW.HUDSONCOUNTYNJ.ORG/PLANNING

THOMAS A. DeGIBB
COUNTY EXECUTIVE

MARIANO VEGA, JR.
DIRECTOR

STEPHEN D. MARKS, PP, AICP
DIVISION CHIEF

(201) 217-5137
FAX (201) 795-7856

TRANSMITTED BY FAX AND CERTIFIED MAIL

March 3, 2008

John K. Enright
Associate General Counsel
1000 Howard Boulevard, 4th Floor
Mt. Laurel, NJ 08054

Re: **STB No. AB 167 (Sub-No. 1189X)**
STB No. AB 55 (Sub-No. 686X (CSXT))
STB No. AB 290 (Sub-No. 306X (NS))
Abandonment of Harsimus Branch &
Harsimus Street Industrial Track

Dear Mr. Enright:

Please accept this letter in response to your correspondence dated February 7, 2008. The Hudson County Division of Planning is an A-95 review agency for the County of Hudson. With regard to Conrail's proposal to abandon both the "Harsimus Branch" between milepost 0.0 and milepost 1.36 and the "Harsimus Street Industrial Track" between milepost 0.0 and milepost 0.72, I offer the following comments:

1. The City Council of the City of Jersey City approved an ordinance authorizing the City to purchase or condemn the above referenced railroad lines, pursuant to N.J.S.A. 48:125-1 et seq. Conrail should contact the City of Jersey City for additional information.
2. The NJ Department of Environmental Protection's Historic Preservation Office has identified a swath of downtown Jersey City, including the railroad lines, as the "Harsimus Cove Historic District" (ID #1509). The district was deemed eligible for the National Register of Historic Places on 12/9/1987 (NR Reference # 87002118) and on the State Register dated 10/15/87. Conrail should conduct a Sec. 106 review and contact the NJ DEP's Historic Preservation Office for additional information.
3. The N.J. Department of Environmental Protection's Historic Preservation Office placed the "Pennsylvania Railroad Harsimus Branch Embankment" (ID #131) on the State Register of Historic Places on 12/29/1999. A Certification of Eligibility (COE) was issued by SHPO on 2/17/1999. A Determination of Eligibility (DOE) was issued by

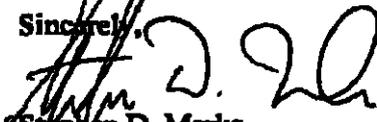
An equal opportunity employer

SHPO on 3/16/2000. However, the owner of the site objected to the DOE. Conrail should prepare a Sec. 106 Review and contact the NJ DEP's Historic Preservation Office.

4. In September 2002, the N.J. Department of Transportation released the "Bergen Arches Study Final Report." The document identified 6th Street as a potential corridor for transportation alternative "R2." Conrail should contact both the N.J. Department of Transportation and the North Jersey Transportation Planning Authority for additional information.
5. In May 2004, the N.J. Department of Transportation released the "East Coast Greenway Northern New Jersey Route Location Study." The document identified the "Harsimus Branch Embankment" and "6th Street Embankment" as the locally preferred alternative through downtown Jersey City for the proposed East Coast Greenway. The governing bodies of both the City of Jersey City and the County of Hudson approved resolutions in support of the study and the locally preferred alternative.
6. In March 2005, the Hudson County Board of Chosen Freeholder approved the Hudson County Open Space and Recreation Plan as an update and amendment to the Hudson County Mater Plan, pursuant to N.J.S.A. 40:27-1 and N.J.S.A. 40:12-15.1 et seq. The Plan identifies the "6th Street Embankment" as both a historic site and a possible site for preservation or acquisition.

The Harsimus Branch and Track are important corridors and right-of-ways within Jersey City which have been identified by a number of State and local plans and documents. Abandonment of the railroad lines by Conrail warrants further discussion with State, regional, county and local officials. If you need additional information or assistance, please feel free to call me at any time. Thank you for your attention to this matter.

Sincerely,



Stephen D. Marks
Planning Director

- c. Adam Zellner, Office of the Governor
Hon. Lisa Jackson, Commissioner, NJDEP
Hon. Kris Kolluri, Commissioner, NJDOT
Jay Watson, Assistant Commissioner, NJDEP
Terry Karschner, NJ DEP, Historic Preservation Office
Amy Cradic, NJDEP, Historic Preservation Office
Amit Bose, NJDOT
Sheree Davis, NJDOT
Mary K. Murphy, Executive Director, North Jersey Transportation Planning Authority
Hon. Thomas A. DeGise, Hudson County Executive
John Lane, Hudson County Division of Engineering
Hon. Jerramiah Healey, Mayor, City of Jersey City
Hon. Mariano Vega, Jersey City Council President
Carl Czaplecki, Director, Jersey City Dept. of Housing, Economic Dev. & Commerce
Robert Cotter, Director, Jersey City Division of City Planning

CONRAIL



February 7, 2008

Bradley M. Campbell, Commissioner
State Historic Preservation Office
Department of Environmental Protection
401 East State Street, P. O. Box 404
Trenton, NJ 08625-0404

Dear Mr. Campbell:

Conrail is proposing to abandon a portion of a railroad line, known as the Harsimus Branch, between milepost 0.0 and milepost 1.36, and the entirety of a neighboring railroad line known as the Hudson Street Industrial Track, between milepost 0.0 and milepost 0.72, both located in Jersey City, Hudson County, NJ (together hereinafter the "Line" or "Lines"). Because of the proximity of the two Lines, we are including them in the same application. To begin this abandonment process, Conrail must file an application with the Surface Transportation Board (STB). **This application will be docketed as STB No. AB 167 (Sub-No. 1189X).** Rail service on the Lines was previously discontinued and the underlying right-of-way was either sold or reverted to various parties. Pursuant to the decision of the federal Surface Transportation Board served on August 9, 2007 (STB Finance Docket No. 34818), Conrail has been directed to file the subject abandonment application. A requirement for this filing is the consultation of the State Historic Preservation Office. Simultaneous with Conrail's filing of its abandonment application, CSX Transportation, Inc. ("CSXT) and Norfolk Southern Railway Company ("NS") will be filing Notices of Discontinuance of Service with respect to the same lines (these applications will be docketed as **STB No. AB 55 (Sub-No. 686X (CSXT)) and STB No. AB 290 (Sub-No. 306X (NS))**). This letter will serve as the consultation notice with respect to each of these three filings.

Enclosed is a copy of a portion of a U.S.G.S. quadrangle map delineating the area being considered. There are no railroad buildings along this Line. Neither Line contains existing undergrade bridges that our records indicate are greater than 50 years old and are the maintenance responsibility of the railroad. However, historically, an elevated portion of the Harsimus Branch consisted of an undergrade bridge that traversed several street intersections. While the bridge no longer exists, many of the bridge supports are still standing. Another elevated portion of the Harsimus Branch was supported by an embankment, which now consists of six blocks of embankment structures (collectively the "Embankment"). The bridges that connected the Embankment have been removed. The Embankment is listed on the New Jersey State Historic Register and has also been given landmark status by the City of Jersey City. Original photographs of these structures are enclosed.

It is Conrail's position that none of the characteristics of these Lines holds any special historical or engineering significance. The Lines traverse urban residential/commercial/industrial areas with a flat topography. In connection with a proposed redevelopment of property surrounding and including the Embankment, soil sampling and analysis was conducted in 2005 which concluded that any detected contamination can be designated as "Historic Fill" type contamination. The rails and ties of both the Harsimus Branch and the Hudson Street Industrial Track have already been removed and therefore the abandonment will not result in any salvage activity or disturbance on the Lines.

Please forward any comments you may have regarding this proposal in writing to the address below. Because of the necessary time schedules for the STB filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (856) 231-7206.

Thank you for your cooperation.

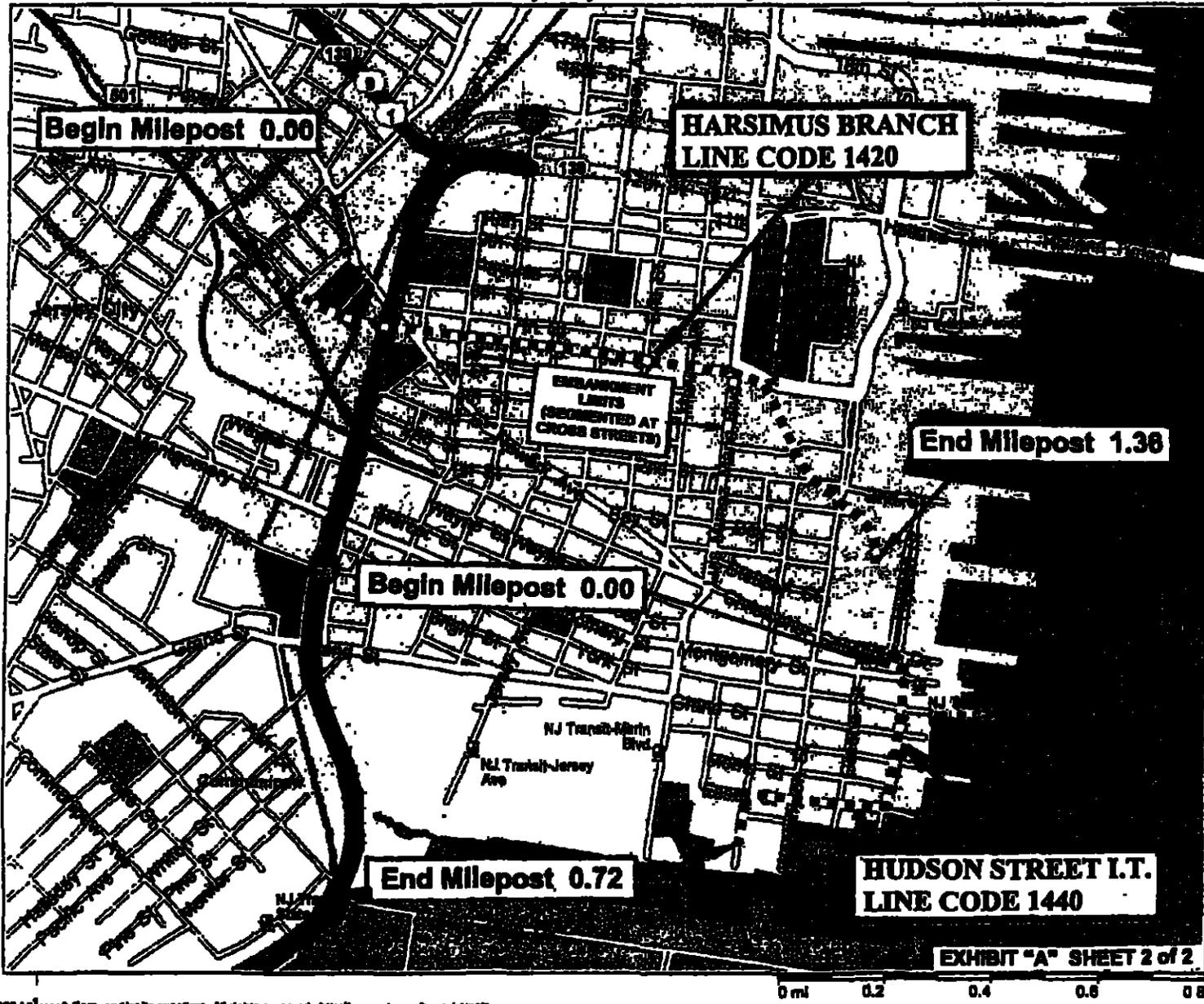
Sincerely,

John K. Enright / rbd

**John K. Enright
Associate General Counsel
1000 Howard Boulevard, 4th Floor
Mt. Laurel, NJ 08054
Enclosure(s)**



Jersey City, New Jersey



000247

CONRAIL



February 7, 2008

New Jersey State Clearinghouse
State Review Process
Office of the Governor
P.O. Box 001
Trenton, NJ 08625-0001

Dear Sir/Madam:

Conrail is proposing to abandon a portion of a railroad line, known as the Harsimus Branch, between milepost 0.0 and milepost 1.36, and the entirety of a neighboring railroad line known as the Hudson Street Industrial Track, between milepost 0.0 and milepost 0.72, both located in Jersey City, Hudson County, NJ (together hereinafter the "Line" or "Lines"). Because of the proximity of the two Lines, we are including them in the same application. To begin this abandonment process, Conrail must file an application with the Surface Transportation Board (STB). **This application will be docketed as STB No. AB 167 (Sub-No. 1189X).** Rail service on the Lines was previously discontinued and the underlying right-of-way was either sold or reverted to various parties. Pursuant to the decision of the federal Surface Transportation Board served on August 9, 2007 (STB Finance Docket No. 34818), Conrail has been directed to file the subject abandonment application. We are required to contact the state clearinghouse concerning the abandonment. Simultaneous with Conrail's filing of its abandonment application, CSX Transportation, Inc. ("CSXT) and Norfolk Southern Railway Company ("NS") will be filing Notices of Discontinuance of Service with respect to the same lines **(these applications will be docketed as STB No. AB 55 (Sub-No. 686X (CSXT)) and STB No. AB 290 (Sub-No. 306X (NS)).** This letter will serve as the consultation notice with respect to each of these three filings. I would appreciate any comments you may have concerning the proposal.

I am enclosing a copy of a U.S.G.S. map with the area of the subject track defined. In this case, the abandonment would not involve the salvage or removal of track material. **The rails and ties of both the Harsimus Branch and the Hudson Street Industrial Track have already been removed and therefore the abandonment will not result in any salvage activity or disturbance on the Lines.**

Please forward your comments regarding this proposal, in writing, to the address below. Because of the necessary time schedules for the STB filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (856) 231-7206.

Thank you for your cooperation.

Sincerely,

John K. Enright / rbd

John K. Enright
Associate General Counsel
1000 Howard Boulevard, 4th Floor
Mt. Laurel, NJ 08054

cc: D. C. Agrawal – New Jersey Transit

Enclosures

CONRAIL



February 7, 2008

Robert B. Piel, Jr., Manager
NJ Department of Environmental Protection
Bureau of Inland Regulation
401 East State Street, 7th Floor
P.O. Box 402
Trenton, NJ 08625-0402

Dear Mr. Piel:

Conrail is proposing to abandon a portion of a railroad line, known as the Harsimus Branch, between milepost 0.0 and milepost 1.36, and the entirety of a neighboring railroad line known as the Hudson Street Industrial Track, between milepost 0.0 and milepost 0.72, both located in Jersey City, Hudson County, NJ (together hereinafter the "Line" or "Lines"). Because of the proximity of the two Lines, we are including them in the same application. To begin this abandonment process, Conrail must file an application with the Surface Transportation Board (STB). **This application will be docketed as STB No. AB 167 (Sub-No. 1189X).** Rail service on the Lines was previously discontinued and the underlying right-of-way was either sold or reverted to various parties. Pursuant to the decision of the federal Surface Transportation Board served on August 9, 2007 (STB Finance Docket No. 34818), Conrail has been directed to file the subject abandonment application. One of the requirements for this filing is that the Division of Coastal Resources be consulted. Simultaneous with Conrail's filing of its abandonment application, CSX Transportation, Inc. ("CSXT) and Norfolk Southern Railway Company ("NS") will be filing Notices of Discontinuance of Service with respect to the same lines (these applications will be docketed as STB No. AB 55 (Sub-No. 686X (CSXT)) and STB No. AB 290 (Sub-No. 306X (NS))). This letter will serve as the consultation notice with respect to each of these three filings.

Are there any coastal zone areas in the vicinity of the proposal? And if so, what effect would the proposal have on these zones?

Enclosed is a copy of a portion of a U.S.G.S. quadrangle map delineating the area being considered. In this case, the abandonment would not involve the salvage or removal of track material. There would be no in-stream salvage of any bridges. **The rails and ties of both the Harsimus Branch and the Hudson Street Industrial Track have already been removed and therefore the abandonment will not result in any salvage activity or disturbance on the Lines.**

It is requested that a written reply be forwarded to the address below. Because of the necessary time schedules for the STB filing, please respond within 30 days of the date of this letter. If I may be of any further assistance, please feel free to contact me at (856) 231-7206. Thank you for your cooperation.

Sincerely,

John K. Enright /-bd

John K. Enright
Associate General Counsel
1000 Howard Boulevard, 4th Floor
Mt. Laurel, NJ 08054

Enclosure(s)

CONRAIL



February 7, 2008

Kenneth C. Koschek
NJ Department of Environmental Protection
Office of Permit Coordination and Environmental Review
P. O. Box 418
Trenton, NJ 08625-0418

Dear Mr. Koschek:

Conrail is proposing to abandon a portion of a railroad line, known as the Harsimus Branch, between milepost 0.0 and milepost 1.36, and the entirety of a neighboring railroad line known as the Hudson Street Industrial Track, between milepost 0.0 and milepost 0.72, both located in Jersey City, Hudson County, NJ (together hereinafter the "Line" or "Lines"). Because of the proximity of the two Lines, we are including them in the same application. To begin this abandonment process, Conrail must file an application with the Surface Transportation Board (STB). **This application will be docketed as STB No. AB 167 (Sub-No. 1189X).** Rail service on the Lines was previously discontinued and the underlying right-of-way was either sold or reverted to various parties. Pursuant to the decision of the federal Surface Transportation Board served on August 9, 2007 (STB Finance Docket No. 34818), Conrail has been directed to file the subject abandonment application. One of the requirements for this filing is that the Division of Coastal Resources be consulted. Simultaneous with Conrail's filing of its abandonment application, CSX Transportation, Inc. ("CSXT") and Norfolk Southern Railway Company ("NS") will be filing Notices of Discontinuance of Service with respect to the same lines (these applications will be docketed as **STB No. AB 55 (Sub-No. 686X (CSXT))** and **STB No. AB 290 (Sub-No. 306X (NS))**). This letter will serve as the consultation notice with respect to each of these three filings.

Are there any coastal zone areas in the vicinity of the proposal? And if so, what effect would the proposal have on these zones?

Enclosed is a copy of a portion of a U.S.G.S. quadrangle map delineating the area being considered. In this case, the abandonment would not involve the salvage or removal of track material. There would be no in-stream salvage of any bridges. **The rails and ties of both the Harsimus Branch and the Hudson Street Industrial Track have already been removed and therefore the abandonment will not result in any salvage activity or disturbance on the Lines.**

It is requested that a written reply be forwarded to the address below. Because of the necessary time schedules for the STB filing, please respond within 30 days of the date of this letter. If I may be of any further assistance, please feel free to contact me at (856) 231-7206. Thank you for your cooperation.

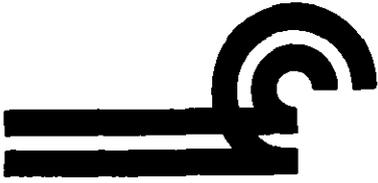
Sincerely,

John K. Enright /-b1

**John K. Enright
Associate General Counsel
1000 Howard Boulevard, 4th Floor
Mt. Laurel, NJ 08054**

Enclosure(s)

CONRAIL



February 7, 2008

Thomas A. DeGise, County Executive
Justice Brennan Court House
583 Newark Avenue
Jersey City, NJ 07306

Dear Mr. DeGise:

Conrail is proposing to abandon a portion of a railroad line, known as the Harsimus Branch, between milepost 0.0 and milepost 1.36, and the entirety of a neighboring railroad line known as the Hudson Street Industrial Track, between milepost 0.0 and milepost 0.72, both located in Jersey City, Hudson County, NJ (together hereinafter the "Line" or "Lines"). Because of the proximity of the two Lines, we are including them in the same application. To begin this abandonment process, Conrail must file an application with the Surface Transportation Board (STB). **This application will be docketed as STB No. AB 167 (Sub-No. 1189X).** Rail service on the Lines was previously discontinued and the underlying right-of-way was either sold or reverted to various parties. Pursuant to the decision of the federal Surface Transportation Board served on August 9, 2007 (STB Finance Docket No. 34818), Conrail has been directed to file the subject abandonment application. We are required to contact local or regional planning agencies about the abandonment. Simultaneous with Conrail's filing of its abandonment application, CSX Transportation, Inc. ("CSXT") and Norfolk Southern Railway Company ("NS") will be filing Notices of Discontinuance of Service with respect to the same lines **(these applications will be docketed as STB No. AB 55 (Sub-No. 686X (CSXT)) and STB No. AB 290 (Sub-No. 306X (NS)).** This letter will serve as the consultation notice with respect to each of these three filings.

Enclosed is a copy of a portion of a U.S.G.S. quadrangle map delineating the area being considered. In this case, the abandonment would not involve the salvage or removal of track material. **The rails and ties of both the Harsimus Branch and the Hudson Street Industrial Track have already been removed and therefore the abandonment will not result in any salvage activity or disturbance on the Lines.**

Is the proposed abandonment consistent with existing land use plans?

Please forward any comments you may have regarding this proposal, in writing, to the address below. Because of the necessary time schedules for the STB filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (856) 231-7206.

Thank you for your cooperation.

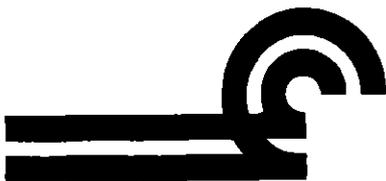
Sincerely,

John K. Enright / rbd

**John K. Enright
Associate General Counsel
1000 Howard Boulevard, 4th Floor
Mt. Laurel, NJ 08054**

Enclosure(s)

CONRAIL®



February 7, 2008

The District Engineer
U.S. Army Engineer District, New York
Jacob K. Javits Federal Building
26 Federal Plaza, Room 2109
New York, NY 10278-0090

Dear Sir/Madam:

Conrail is proposing to abandon a portion of a railroad line, known as the Harsimus Branch, between milepost 0.0 and milepost 1.36, and the entirety of a neighboring railroad line known as the Hudson Street Industrial Track, between milepost 0.0 and milepost 0.72, both located in Jersey City, Hudson County, NJ (together hereinafter the "Line" or "Lines"). Because of the proximity of the two Lines, we are including them in the same application. To begin this abandonment process, Conrail must file an application with the Surface Transportation Board (STB). **This application will be docketed as STB No. AB 167 (Sub-No. 1189X).** Rail service on the Lines was previously discontinued and the underlying right-of-way was either sold or reverted to various parties. Pursuant to the decision of the federal Surface Transportation Board served on August 9, 2007 (STB Finance Docket No. 34818), Conrail has been directed to file the subject abandonment application. We are required to contact various agencies about items concerning the abandonment. Some of these items involve the Army Corps of Engineers. Simultaneous with Conrail's filing of its abandonment application, CSX Transportation, Inc. ("CSXT") and Norfolk Southern Railway Company ("NS") will be filing Notices of Discontinuance of Service with respect to the same lines **(these applications will be docketed as STB No. AB 55 (Sub-No. 686X (CSXT)) and STB No. AB 290 (Sub-No. 306X (NS)).** This letter will serve as the consultation notice with respect to each of these three filings.

Enclosed is a copy of a portion of a U.S.G.S. quadrangle map delineating the area being considered. In this case, the abandonment would not involve the salvage or removal of track material. There would be no in-stream salvage of any bridges. **The rails and ties of both the Harsimus Branch and the Hudson Street Industrial Track have already been removed and therefore the abandonment will not result in any salvage activity or disturbance on the Lines.**

Will this abandonment require permits as designated under section 404 of the Clean Water Act (33 U.S.C. 1344)? Would the proposed abandonment affect any designated wetlands? Would any 100-year flood plains be affected by this action?

It is requested that a written reply be forwarded to the address below. Because of the necessary time schedules for the STB filing, please respond within 30 days of the date of this letter. If I may be of any further assistance, please feel free to contact me at (856) 231-7206. Thank you for your cooperation.

Sincerely,

John K. Enright/rbd

**John K. Enright
Associate General Counsel
1000 Howard Boulevard, 4th Floor
Mt. Laurel, NJ 08054**

Enclosure(s)

CONRAIL



February 7, 2008

U.S. Fish and Wildlife Service
New Jersey Field Office
927 North Main Street
Heritage Square, Building D
Pleasantville, NJ 08232

Dear Sir/Madam:

Conrail is proposing to abandon a portion of a railroad line, known as the Harsimus Branch, between milepost 0.0 and milepost 1.36, and the entirety of a neighboring railroad line known as the Hudson Street Industrial Track, between milepost 0.0 and milepost 0.72, both located in Jersey City, Hudson County, NJ (together hereinafter the "Line" or "Lines"). Because of the proximity of the two Lines, we are including them in the same application. To begin this abandonment process, Conrail must file an application with the Surface Transportation Board (STB). **This application will be docketed as STB No. AB 167 (Sub-No. 1189X).** Rail service on the Lines was previously discontinued and the underlying right-of-way was either sold or reverted to various parties. Pursuant to the decision of the federal Surface Transportation Board served on August 9, 2007 (STB Finance Docket No. 34818), Conrail has been directed to file the subject abandonment application. A requirement of this filing is that various agencies be contacted concerning certain items, one being the presence of any endangered or threatened species or critical habitats. Simultaneous with Conrail's filing of its abandonment application, CSX Transportation, Inc. ("CSXT) and Norfolk Southern Railway Company ("NS") will be filing Notices of Discontinuance of Service with respect to the same lines (these applications will be docketed as **STB No. AB 55 (Sub-No. 686X (CSXT)) and STB No. AB 290 (Sub-No. 306X (NS)).** This letter will serve as the consultation notice with respect to each of these three filings.

Enclosed is a copy of a portion of a U.S.G.S. quadrangle map delineating the area being considered. In this case, the abandonment will not involve the salvage or removal of track material. **The rails and ties of both the Harsimus Branch and the Hudson Street Industrial Track have already been removed and therefore the abandonment will not result in any salvage activity or disturbance on the Lines.**

Are there any endangered or threatened species in the vicinity of the track, and would there be an adverse effect due to the abandonment? Are there any areas designated as critical habitats in the vicinity? Also, are there any wildlife sanctuaries or refuges, National or State parks or forests in the vicinity? If so, how would they be affected?

Please forward your written reply to the address below. Because of the necessary time schedules for the STB filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (856) 231-7206. Thank you for your cooperation.

Sincerely,

John K. Enright / rtd

**John K. Enright
Associate General Counsel
1000 Howard Boulevard, 4th Floor
Mt. Laurel, NJ 08054
Enclosure(s)**

CONRAIL



February 7, 2008

U.S. Environmental Protection Agency
Region 2
290 Broadway
New York, NY 10007-1866

Dear Sir/Madam:

Conrail is proposing to abandon a portion of a railroad line, known as the Harsimus Branch, between milepost 0.0 and milepost 1.36, and the entirety of a neighboring railroad line known as the Hudson Street Industrial Track, between milepost 0.0 and milepost 0.72, both located in Jersey City, Hudson County, NJ (together hereinafter the "Line" or "Lines"). Because of the proximity of the two Lines, we are including them in the same application. To begin this abandonment process, Conrail must file an application with the Surface Transportation Board (STB). **This application will be docketed as STB No. AB 167 (Sub-No. 1189X).** Rail service on the Lines was previously discontinued and the underlying right-of-way was either sold or reverted to various parties. Pursuant to the decision of the federal Surface Transportation Board served on August 9, 2007 (STB Finance Docket No. 34818), Conrail has been directed to file the subject abandonment application. One of the requirements for this filing is that the Environmental Protection Agency be consulted. Simultaneous with Conrail's filing of its abandonment application, CSX Transportation, Inc. ("CSXT") and Norfolk Southern Railway Company ("NS") will be filing Notices of Discontinuance of Service with respect to the same lines (**these applications will be docketed as STB No. AB 55 (Sub-No. 686X (CSXT)) and STB No. AB 290 (Sub-No. 306X (NS)).** This letter will serve as the consultation notice with respect to each of these three filings.

Will this proposed abandonment require permits as designated under section 402 of the Clean Water Act (33 U.S.C. 1342)? Enclosed is a copy of a portion of a U.S.G.S. quadrangle map delineating the area being considered. In this case, the abandonment would not involve the salvage or removal of track material. There would be no in-stream salvage of any bridges. **The rails and ties of both the Harsimus Branch and the Hudson Street Industrial Track have already been removed and therefore the abandonment will not result in any salvage activity or disturbance on the Lines.**

Please forward any comments you may have regarding this proposal, in writing, to the address below. Because of the necessary time schedules for the STB filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (856) 231-7206.

Thank you for your cooperation.

Sincerely,

John K. Enright /-kt

**John K. Enright
Associate General Counsel
1000 Howard Boulevard, 4th Floor
Mt. Laurel, NJ 08054**

Enclosure(s)

CONRAIL



February 7, 2008

Mayor Jerramiah T. Healy
City Hall – 280 Grove Street
Jersey City, NJ 07302

Dear Mayor Healy:

Conrail is proposing to abandon a portion of a railroad line, known as the Harsimus Branch, between milepost 0.0 and milepost 1.36, and the entirety of a neighboring railroad line known as the Hudson Street Industrial Track, between milepost 0.0 and milepost 0.72, both located in Jersey City, Hudson County, NJ (together hereinafter the "Line" or "Lines"). Because of the proximity of the two Lines, we are including them in the same application. To begin this abandonment process, Conrail must file an application with the Surface Transportation Board (STB). **This application will be docketed as STB No. AB 167 (Sub-No. 1189X).** Rail service on the Lines was previously discontinued and the underlying right-of-way was either sold or reverted to various parties. Pursuant to the decision of the federal Surface Transportation Board served on August 9, 2007 (STB Finance Docket No. 34818), Conrail has been directed to file the subject abandonment application. We are required to contact local or regional planning agencies about the abandonment. Simultaneous with Conrail's filing of its abandonment application, CSX Transportation, Inc. ("CSXT") and Norfolk Southern Railway Company ("NS") will be filing Notices of Discontinuance of Service with respect to the same lines **(these applications will be docketed as STB No. AB 55 (Sub-No. 686X (CSXT)) and STB No. AB 290 (Sub-No. 306X (NS)).** This letter will serve as the consultation notice with respect to each of these three filings.

Enclosed is a copy of a portion of a U.S.G.S. quadrangle map delineating the area being considered. In this case, the abandonment would not involve the salvage or removal of track material. **The rails and ties of both the Harsimus Branch and the Hudson Street Industrial Track have already been removed and therefore the abandonment will not result in any salvage activity or disturbance on the Lines.**

Is the proposed abandonment consistent with existing land use plans?

Please forward any comments you may have regarding this proposal, in writing, to the address below. Because of the necessary time schedules for the STB filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (856) 231-7206.

Thank you for your cooperation.

Sincerely,

John K. Enright /-bd

**John K. Enright
Associate General Counsel
1000 Howard Boulevard, 4th Floor
Mt. Laurel, NJ 08054**

Enclosure(s)

CONRAIL



February 7, 2008

Richard Snay, Chief
Spatial Reference System Division
National Geodetic Survey
1315 East-West Highway
Silver Spring, MD 20910-3282

Dear Mr. Snay:

Conrail is proposing to abandon a portion of a railroad line, known as the Harsimus Branch, between milepost 0.0 and milepost 1.36, and the entirety of a neighboring railroad line known as the Hudson Street Industrial Track, between milepost 0.0 and milepost 0.72, both located in Jersey City, Hudson County, NJ (together hereinafter the "Line" or "Lines"). Because of the proximity of the two Lines, we are including them in the same application. To begin this abandonment process, Conrail must file an application with the Surface Transportation Board (STB). **This application will be docketed as STB No. AB 167 (Sub-No. 1189X).** Rail service on the Lines was previously discontinued and the underlying right-of-way was either sold or reverted to various parties. Pursuant to the decision of the federal Surface Transportation Board served on August 9, 2007 (STB-Finance Docket No. 34818); Conrail has been directed to file the subject abandonment application. We are required to contact the National Geodetic Survey concerning the abandonment. I would appreciate any comments you may have concerning the proposal. Simultaneous with Conrail's filing of its abandonment application, CSX Transportation, Inc. ("CSXT") and Norfolk Southern Railway Company ("NS") will be filing Notices of Discontinuance of Service with respect to the same lines (these applications will be docketed as STB No. AB 55 (Sub-No. 686X (CSXT)) and STB No. AB 290 (Sub-No. 306X (NS))). This letter will serve as the consultation notice with respect to each of these three filings.

I am enclosing a copy of a U.S.G.S. map with the area of the subject track defined. In this case, the abandonment would not involve the salvage or removal of track material. **The rails and ties of both the Harsimus Branch and the Hudson Street Industrial Track have already been removed and therefore the abandonment will not result in any salvage activity or disturbance on the Lines and no geodetic survey marks would be disturbed.**

Please forward your comments regarding this proposal, in writing, to the address below. Because of the necessary time schedules for the STB filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (856) 231-7206 or via e-mail at John.Enright@Conrail.com.

Thank you for your cooperation.

Sincerely,

John K. Enright / rbd

**John K. Enright
Associate General Counsel
1000 Howard Boulevard, 4th Floor
Mt. Laurel, NJ 08054**

Enclosures

CONRAIL



February 7, 2008

U.S. Department of the Interior
National Park Service
Chief, Recreation Resources Assistance Division
1849 C Street, NW
Room 3129
Washington, DC 20240

Regional Director
National Park Service
U.S. Custom House
200 Chestnut St., 5th Floor
Philadelphia, PA 19106

Dear Sir/Madam:

Conrail is proposing to abandon a portion of a railroad line, known as the Harsimus Branch, between milepost 0.0 and milepost 1.36, and the entirety of a neighboring railroad line known as the Hudson Street Industrial Track, between milepost 0.0 and milepost 0.72, both located in Jersey City, Hudson County, NJ (together hereinafter the "Line" or "Lines"). Because of the proximity of the two Lines, we are including them in the same application. To begin this abandonment process, Conrail must file an application with the Surface Transportation Board (STB). **This application will be docketed as STB No. AB 167 (Sub-No. 1189X).** Rail service on the Lines was previously discontinued and the underlying right-of-way was either sold or reverted to various parties. Pursuant to the decision of the federal Surface Transportation Board served on August 9, 2007 (STB Finance Docket No. 34818), Conrail has been directed to file the subject abandonment application. One of the requirements for this filing is that the National Park Service be consulted. Simultaneous with Conrail's filing of its abandonment application, CSX Transportation, Inc. ("CSXT") and Norfolk Southern Railway Company ("NS") will be filing Notices of Discontinuance of Service with respect to the same lines (these applications will be docketed as STB No. AB 55 (Sub-No. 686X (CSXT)) and STB No. AB 290 (Sub-No. 306X (NS))). This letter will serve as the consultation notice with respect to each of these three filings.

Enclosed are segments of U.S.G.S. quadrangle maps delineating the line being considered. In this case, the abandonment will not involve salvage or removal of track material. **The rails and ties of both the Harsimus Branch and the Hudson Street Industrial Track have already been removed and therefore the abandonment will not result in any salvage activity or disturbance on the Lines.**

Are there any wildlife sanctuaries or refuges, National or State parks or forests in the vicinity of the proposals? And if so, what would be the effects?

Please forward any comments you may have regarding this proposal, in writing, to the address below. Because of the necessary time schedules for the STB filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (856) 231-7206. Thank you for your cooperation.

Sincerely,

John K. Enright /-hd

John K. Enright
Associate General Counsel
1000 Howard Boulevard, 4th Floor
Mt. Laurel, NJ 08054

Enclosure(s)

CONRAIL



February 7, 2008

Stephen D. Marks, Director
Hudson County Planning Division
Justice Brennan Court House
583 Newark Avenue
Jersey City, NJ 07306

Dear Mr. Marks:

Conrail is proposing to abandon a portion of a railroad line, known as the Harsimus Branch, between milepost 0.0 and milepost 1.36, and the entirety of a neighboring railroad line known as the Hudson Street Industrial Track, between milepost 0.0 and milepost 0.72, both located in Jersey City, Hudson County, NJ (together hereinafter the "Line" or "Lines"). Because of the proximity of the two Lines, we are including them in the same application. To begin this abandonment process, Conrail must file an application with the Surface Transportation Board (STB). **This application will be docketed as STB No. AB 167 (Sub-No. 1189X).** Rail service on the Lines was previously discontinued and the underlying right-of-way was either sold or reverted to various parties. Pursuant to the decision of the federal Surface Transportation Board served on August 9, 2007 (STB Finance Docket No. 34818), Conrail has been directed to file the subject abandonment application. We are required to contact local or regional planning agencies about the abandonment. Simultaneous with Conrail's filing of its abandonment application, CSX Transportation, Inc. ("CSXT) and Norfolk Southern Railway Company ("NS") will be filing Notices of Discontinuance of Service with respect to the same lines **(these applications will be docketed as STB No. AB 55 (Sub-No. 686X (CSXT)) and STB No. AB 290 (Sub-No. 306X (NS)).** This letter will serve as the consultation notice with respect to each of these three filings.

Enclosed is a copy of a portion of a U.S.G.S. quadrangle map delineating the area being considered. In this case, the abandonment would not involve the salvage or removal of track material. **The rails and ties of both the Harsimus Branch and the Hudson Street Industrial Track have already been removed and therefore the abandonment will not result in any salvage activity or disturbance on the Lines.**

Is the proposed abandonment consistent with existing land use plans?

Please forward any comments you may have regarding this proposal, in writing, to the address below. Because of the necessary time schedules for the STB filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (856) 231-7206.

Thank you for your cooperation.

Sincerely,

John K. Enright /-bd

**John K. Enright
Associate General Counsel
1000 Howard Boulevard, 4th Floor
Mt. Laurel, NJ 08054**

Enclosure(s)

CONRAIL®



February 7, 2008

State Conservationist
Natural Resources Conservation Service
220 Davidson Avenue, 4th Floor
Somerset, NJ 08873-4115

Dear Sir/Madam:

Conrail is proposing to abandon a portion of a railroad line, known as the Harsimus Branch, between milepost 0.0 and milepost 1.36, and the entirety of a neighboring railroad line known as the Hudson Street Industrial Track, between milepost 0.0 and milepost 0.72, both located in Jersey City, Hudson County, NJ (together hereinafter the "Line" or "Lines"). Because of the proximity of the two Lines, we are including them in the same application. To begin this abandonment process, Conrail must file an application with the Surface Transportation Board (STB). **This application will be docketed as STB No. AB 167 (Sub-No. 1189X).** Rail service on the Lines was previously discontinued and the underlying right-of-way was either sold or reverted to various parties. Pursuant to the decision of the federal Surface Transportation Board served on August 9, 2007 (STB Finance Docket No. 34818), Conrail has been directed to file the subject abandonment application. We are required to contact various agencies about items concerning the abandonment. One of these items involves prime agricultural soils. Simultaneous with Conrail's filing of its abandonment application, CSX Transportation, Inc. ("CSXT) and Norfolk Southern Railway Company ("NS") will be filing Notices of Discontinuance of Service with respect to the same lines (these applications will be docketed as STB No. AB 55 (Sub-No. 686X (CSXT)) and STB No. AB 290 (Sub-No. 306X (NS))). This letter will serve as the consultation notice with respect to each of these three filings.

Enclosed is a copy of a portion of a U.S.G.S. Quadrangle map delineating the area being considered. In this case, the abandonment would not involve the salvage or removal of track material. **The rails and ties of both the Harsimus Branch and the Hudson Street Industrial Track have already been removed and therefore the abandonment will not result in any salvage activity or disturbance on the Lines.**

Are there any areas of prime agricultural land, as defined by the Natural Resources Conservation Service, in the vicinity of the subject track? What would be the effect of the proposed abandonment on any prime soils?

Please forward any comments you may have regarding this proposal, in writing, to the address below. Because of the necessary time schedules for the STB filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (856) 231-7206.

Thank you for your cooperation.

Sincerely,

John K. Enright / rbd

**John K. Enright
Associate General Counsel
1000 Howard Boulevard, 4th Floor
Mt. Laurel, NJ 08054**

Enclosure(s)

CONRAIL®



February 7, 2008

Bradley M. Campbell, Commissioner
NJ Department of Environmental Protection
401 East State Street
P.O. Box 402
Trenton, NJ 08625-0402

Dear Mr. Campbell:

Conrail is proposing to abandon a portion of a railroad line, known as the Harsimus Branch, between milepost 0.0 and milepost 1.36, and the entirety of a neighboring railroad line known as the Hudson Street Industrial Track, between milepost 0.0 and milepost 0.72, both located in Jersey City, Hudson County, NJ (together hereinafter the "Line" or "Lines"). Because of the proximity of the two Lines, we are including them in the same application. To begin this abandonment process, Conrail must file an application with the Surface Transportation Board (STB). **This application will be docketed as STB No. AB 167 (Sub-No. 1189X).** Rail service on the Lines was previously discontinued and the underlying right-of-way was either sold or reverted to various parties. Pursuant to the decision of the federal Surface Transportation Board served on August 9, 2007 (STB Finance Docket No. 34818), Conrail has been directed to file the subject abandonment application. One of the requirements for this filing is that the Environmental Protection Agency be consulted. Simultaneous with Conrail's filing of its abandonment application, CSX Transportation, Inc. ("CSXT") and Norfolk Southern Railway Company ("NS") will be filing Notices of Discontinuance of Service with respect to the same lines (these applications will be docketed as STB No. AB 55 (Sub-No. 686X (CSXT)) and STB No. AB 290 (Sub-No. 306X (NS))). This letter will serve as the consultation notice with respect to each of these three filings.

Enclosed a copy of a U.S.G.S. map with the area of the subject track defined. In this case, the abandonment would not involve the salvage or removal of track material. There would be no in-stream salvage of any bridges. **The rails and ties of both the Harsimus Branch and the Hudson Street Industrial Track have already been removed and therefore the abandonment will not result in any salvage activity or disturbance on the Lines.**

Will this proposed abandonment require permits as designated under section 402 of the Clean Water Act (33 U.S.C. 1342)? Are there any coastal zone areas in the vicinity of this proposal? And if so, what effect would the proposal have on these zones?

Please forward any comments you may have regarding this proposal, in writing, to the address below. Because of the necessary time schedules for the STB filing, I would appreciate your response within 30 days of the date of this letter. If I may be of any further assistance, please contact me at (856) 231-7206. Thank you for your cooperation.

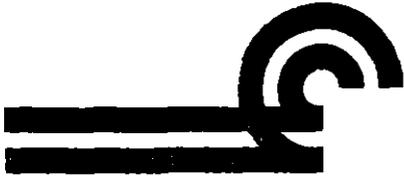
Sincerely,

John K. Enright / rkd

**John K. Enright
Associate General Counsel
1000 Howard Boulevard, 4th Floor
Mt. Laurel, NJ 08054**

Enclosure(s)

CONRAIL®



March 6, 2008

New Jersey State Clearinghouse
State Review Process
Office of the Governor
P.O. Box 001
Trenton, NJ 08625-0001

Kris Kolluri, Commissioner
New Jersey Dept. of Transportation
1035 Parkway Avenue
CN-600
Trenton, NJ 08625

U. S. Department of the Interior
National Park Service
Chief, Recreation Resources Assistance Division
1849 C Street, NW - Room 3129
Washington, DC 20240

U.S. Department of the Interior
National Park Service
Chief, Land Resources Division
1849 C Street - Room 3120
Washington, DC 20240

Bob Korpanty
Department of Defense - MTMCTEA
Attn: Railroads for National Defense
720 Thimble Shoals Boulevard, Suite 130
Newport News, VA 23606-2574

Gail Kimbell, Chief
USDA Forest Service
Sidney R. Yates Federal Building
1400 Independence Avenue, SW
Washington, DC 20250-0003

**RE: Docket No. AB 167 (Sub-No. 1189X)
Consolidated Rail Corporation -- Abandonment
Exemption -- in Hudson County, New Jersey**

**Docket No. AB 55 (Sub-No. 686X)
CSX Transportation, Inc. -- Discontinuance
Exemption -- in Hudson County, New Jersey**

**Docket No. AB 290 (Sub-No 306X)
Norfolk Southern Railway Company -- Discontinuance
Exemption -- in Hudson County, New Jersey**

Dear Sir/Madam:

This is to notify you pursuant to 49 C.F.R. 1152.50(d)(1) that on or after April 7, 2008, Consolidated Rail Corporation ("Conrail"), CSX Transportation, Inc. ("CSXT"), and Norfolk Southern Railway Company ("NS") intend to file combined Notices of Exemption with the Surface Transportation Board for abandonment (Conrail) and

discontinuance of service (CSXT and NS) of the rail lines shown on the attached map, and more fully described below; because of the proximity of the two lines, they are being included in the same application:

Name: Harsimus Branch

Location: Hudson County, New Jersey, traversing United States Postal Service Zip Codes 07302 and 07306

Description of Track: From approximately milepost 0.0± to approximately milepost 1.36± in the city of Jersey City, Hudson County, New Jersey

Length of Track: 1.36 total miles±

Name: Hudson Street Industrial Track

Location: Hudson County, New Jersey, traversing United States Postal Service Zip Code 07302

Description of Track: From approximately milepost 0.0± to approximately milepost 0.72± in the city of Jersey City, Hudson County, New Jersey

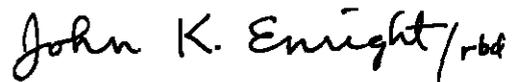
Length of Track: 0.72 total miles±

The Notices of Exemption will be filed pursuant to the provisions of 49 C.F.R. 1152.50 regarding abandonment of out-of-service lines of railroad. Because the subject lines are out of service and have handled no traffic for the past two years, the abandonment will result in no change in current operations or maintenance. Rail service on the lines was previously discontinued and the underlying right-of-way was either sold or reverted to various parties. The rail and ties of both lines have already been removed, as has an undergrade bridge that traversed several street intersections of an elevated portion of the Harsimus Branch. The only alternative considered is no action.

Based on information in our possession, the line does not contain federally granted rights-of-way. Any documentation in our possession will be made available promptly to those requesting it.

If you have any questions concerning this proceeding, please call me at the number shown below.

Very truly yours,

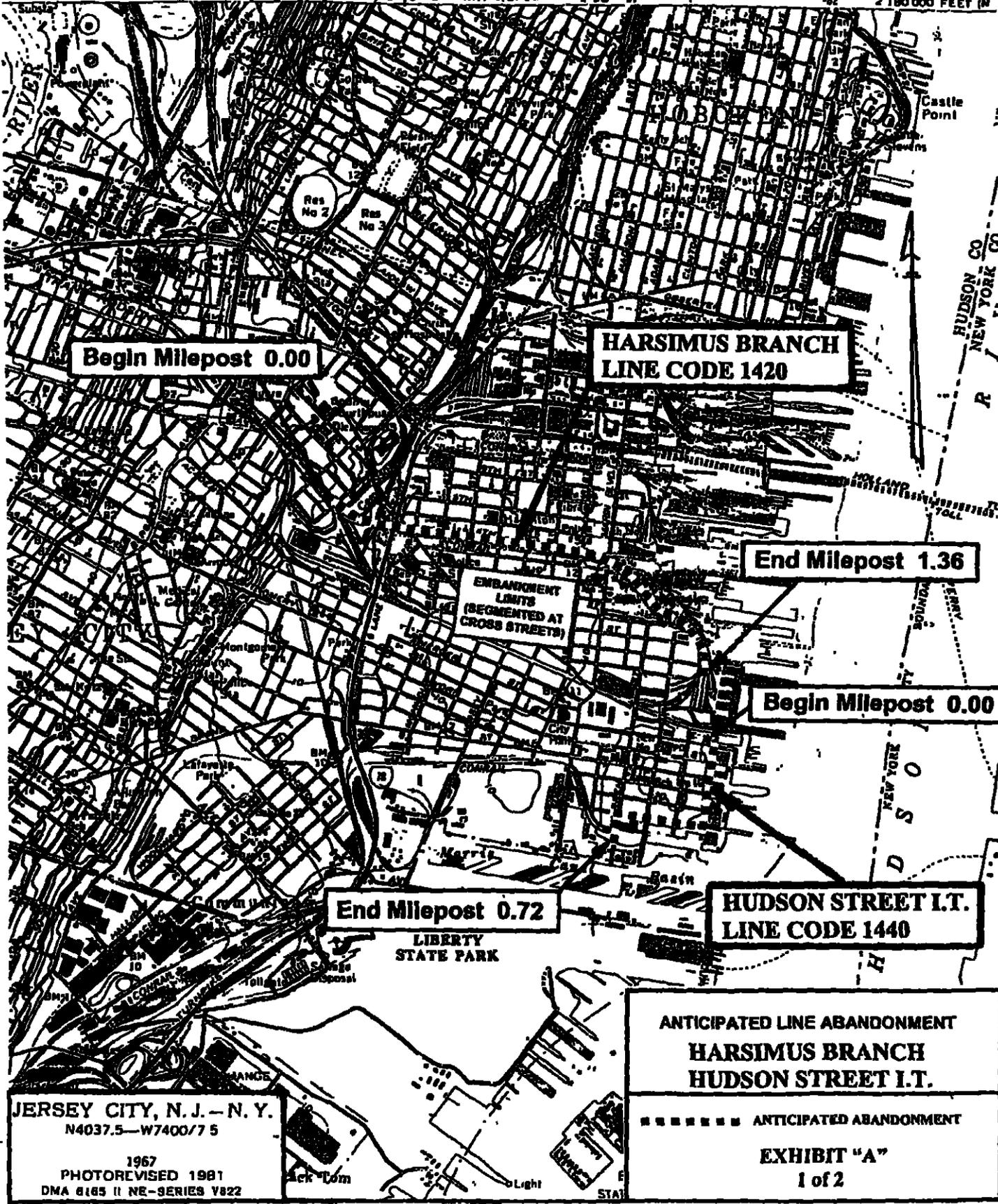
Handwritten signature of John K. Enright in cursive script, with a small 'rbd' written at the end of the signature.

John K. Enright
Associate General Counsel
1000 Howard Boulevard, 4th Floor
Mt. Laurel, NJ 08054
(856) 231-7206

Enclosure

cc: Anne K. Quinlan, Secretary
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423-0001

Regional Director
National Park Service – Northeast Region
U. S. Custom House
200 Chestnut Street, 5th Floor
Philadelphia, PA 19106



Begin Milepost 0.00

**HARSIMUS BRANCH
LINE CODE 1420**

End Milepost 1.36

Begin Milepost 0.00

End Milepost 0.72

**HUDSON STREET I.T.
LINE CODE 1440**

**LIBERTY
STATE PARK**

**EMBANKMENT
LIMITS
(SEGMENTED AT
CROSS STREETS)**

JERSEY CITY, N. J. - N. Y.
N4037.5—W7400/7 5

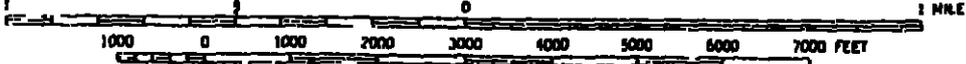
1967
PHOTOREVISED 1981
DMA 6165 II NE-SERIES V822

**ANTICIPATED LINE ABANDONMENT
HARSIMUS BRANCH
HUDSON STREET I.T.**

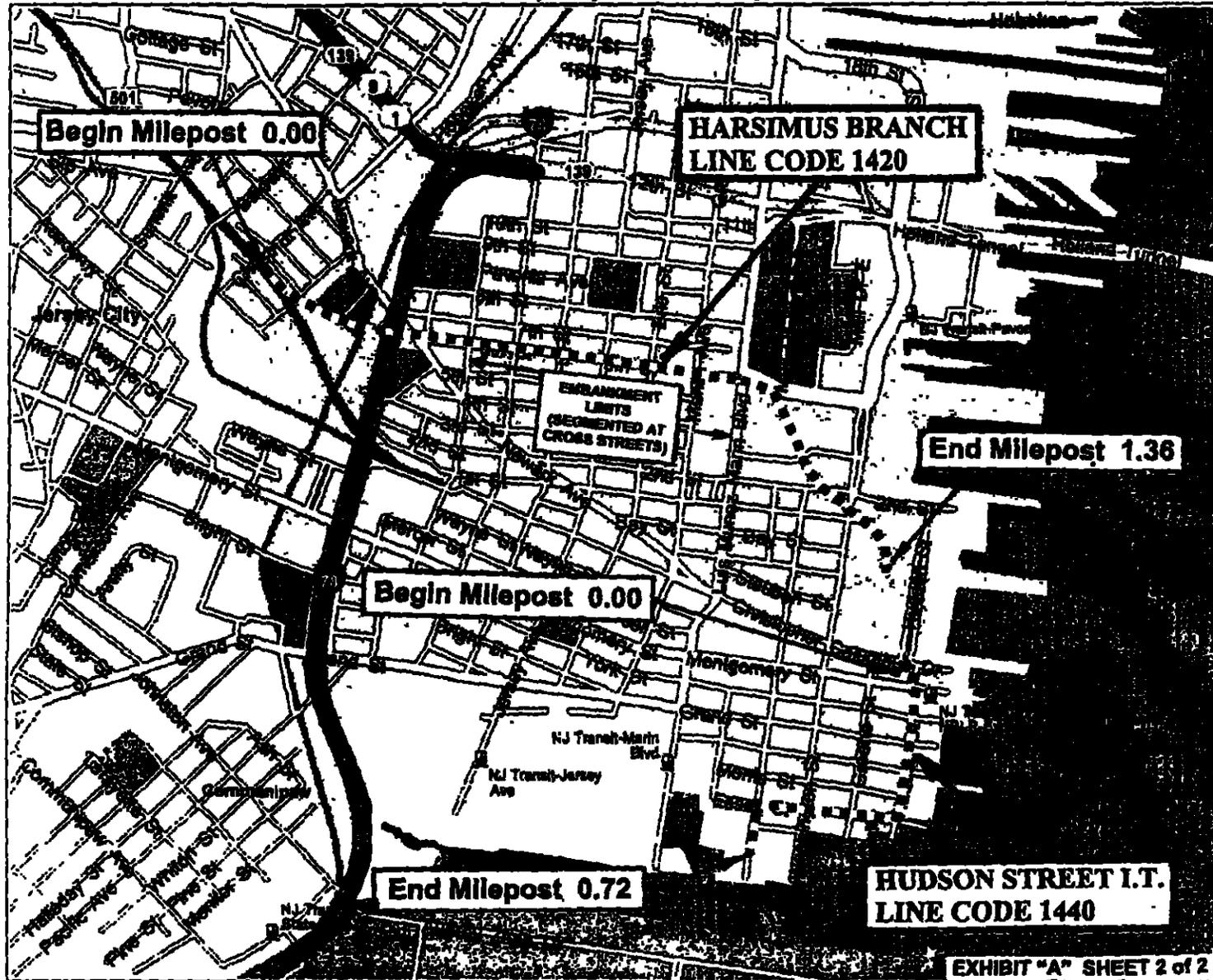
***** ANTICIPATED ABANDONMENT

EXHIBIT "A"
1 of 2

SCALE 1 24000



Jersey City, New Jersey



000278

0 mi 0.2 0.4 0.6 0.8

EXHIBIT Q

Exhibit Q

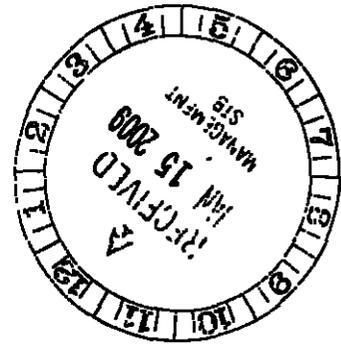
In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Correspondence of Charles Montange, Esq., to the Surface Transportation Board of March 28, 2008, in the matter In Re Consolidated Rail Corporation Abandonment - in Hudson County, NJ AB-167 (Sub No. 1189x) and related proceedings

CHARLES H MONTANGE
ATTORNEY AT LAW
428 NW 162ND STREET
SEATTLE, WASHINGTON 98177

(206) 546-1936
FAX (206) 546-3739



28 March 2008

Section of Environmental Analysis
Surface Transportation Board
395 E Street SW
Washington, D.C. 20024 (express delivery)

Re: Consolidated Rail Corporation - Abandonment
Exemption - in Hudson County, NJ,
AB 167 (Sub-no. 1189X) and related proceedings.

Madams/Sirs:

This letter is on behalf of City of Jersey City, the Pennsylvania Railroad Harsimus Stem Embankment Preservation Coalition ("Embankment Coalition"), and Rails to Trails Conservancy (collectively referred to as "Commenters"). The letter provides comments in connection with the "environmental report" (ER) and "historic report" (HR) prepared by Consolidated Rail Corporation (Conrail) and submitted under cover letter dated March 6, 2008, to the Surface Transportation Board (STB or Board) in connection with the proposed abandonment of two lines of railroad in the City of Jersey City: the Harsimus Branch and the Hudson Street Industrial Track.

Summary of Comments

Conrail's ER/HR should be rejected as inadequate. The ER/HR is based almost entirely on the absence of information provided in response to a set of letters Conrail sent to a smattering of governmental officials or agencies dated February 7, 2008. Those letters provided limited and misleading information about Conrail's actions to date, and proposed actions at the STB. Conrail based its ER/HR largely on the single response it claimed to have received. This is especially disingenuous since Conrail prepared its ER/HR before the return date (30 days from February 7) set forth in its own letter requesting information. Conrail is not some tiny shortline ignorant of its lines or the requirements of the National Environmental Policy Act or the National Historic Preservation Act, nor does Conrail's proposed abandonment affect property of no consequence in the middle of nowhere. The actions taken by Conrail to date, and its proposed

action it sets forth in its ER/HR, are highly controversial and significantly and adversely impact the environment and historic resources.

The Section of Environmental Analysis (SEA) should find that the proposed action sought by Conrail with respect to the Harsimus Branch will "significantly" affect the environment, and insist that a full "environmental impact statement" (EIS) be prepared before any abandonment of the Harsimus Branch may become effective.

SEA must ensure that the Board does not take any action upon Conrail's proposal until there is full compliance not only with section 106 of the National Historic Preservation Act, but also with section 110(k) of that Act. Section 110(k) precludes any agency action here in light of Conrail's anticipatory demolition of the Harsimus Embankment on the Harsimus Branch, absent prior consultation with the Advisory Council on Historic Preservation (ACHP) and special findings by the Board, which cannot lawfully be made.

In light, among other things, of Conrail's anticipatory demolition of the Harsimus Embankment to date, Commenters object to the inadequate ER/HR prepared by Conrail; the failure of Conrail to provide adequate time for comment before it prepared the ER/HR, let alone afterward; the misleading nature of comments by Conrail in its February 7, 2008 letter requesting information, and the failure of Conrail to disclose important information already in its files; the failure of Conrail to incorporate comments it did receive in response to its February 7 letter; Conrail's rush to invoke fast-track "class exemption" procedures in a clearly controversial situation involving an historic asset in a major metropolitan area immediately adjacent to Manhattan; and Conrail's general failure to cooperate in addressing legitimate public concerns relating to historic preservation, highly beneficial alternative public uses, important rail transportation needs, and the significant adverse environmental and historic preservation impacts flowing from Conrail's actions.

Commenters object to use of class exemption procedures in the case at bar, as well as any further processing of Conrail's proposed abandonment of the Harsimus Branch without preparation of a full environmental impact statement and without full compliance with NHPA section 110(k). Without waiver of these objections, if the Board were nonetheless to allow Conrail to proceed using a class exemption, then SEA should recommend that any such exemption be stayed indefinitely to allow for adequate consideration of environmental and historic preservation issues, as well as authorized only with conditions that protect the public from the significant and adverse impacts of Conrail's misconduct to date.

Commenters request consulting party status for purposes of

the Section 106 process in any abandonment proceeding Conrail initiates in connection with the Harsimus Branch.

Identification of Commenting Parties

City of Jersey City is the municipal corporation within whose boundaries all the proposed abandonments would occur.¹ City of Jersey City submitted comments to Conrail by letter dated March 4, 2008, which Conrail's ER/HR ignores. City already has provided copies of the Mayor's letter to SEA and to the Board for filing in this docket as a pleading. City's participation in the comments and objections set forth herein is supplementary to the Mayor's March 4 letter. The City seeks to preserve the Harsimus Branch as an historic resource and for continued rail transportation as well as trail and greenway purposes.

The Embankment Coalition is a 501(c)(3) non-profit corporation with over 1000 individual members and supporters as well as affiliated organizations, including local neighborhood organizations, dedicated to preserving the historic Sixth (or Harsimus) Street Embankment on the Harsimus Branch. Many of the

¹ Conrail solicited the comments of the City of Jersey City and others on the environmental and historic resource consequences of its proposed abandonment by letter dated February 7, 2008. The Conrail letter requested that comments be provided in 30 days. Since 2008 is a leap year, comments would be due on March 8. Mayor Healy for the City responded to Conrail by letter dated March 4, 2008, with a series of comments and objections to Conrail's proposed actions and representations, particularly in reference to the Harsimus Branch.

Conrail evidently prepared and submitted its "Environmental Report" and "Historic Report" (ER/HR) on or about March 6, 2008 (the date of Conrail's transmission letter). We note that this date is prior to the due date for comments provided in Conrail's February 7 letter. Thus, although Conrail in its ER/HR purports to have solicited comments and to have consulted, it effectively did not do so in a meaningful fashion prior to drawing up its ER/HR, even if one assumes arguendo that asking for comments in 30 days constitutes consultation. As a kind of confirmation of the misleading nature of Conrail's alleged consultation, the railroad's submission totally ignores the City's comments manifest in the Mayor's letter, even though the Mayor's March 4 letter was within Conrail's arbitrary deadline.

As we indicate later in our comments, the ER/HR is also defective in omitting other germane information which is known to be in the files of Conrail. Further, the letter transmitting the ER/HR advises recipients that they should comment within 21 days. This time period is insufficient for purposes of the environmental and historic issues posed in this proceeding.

Coalition's members live in the vicinity of the Embankment and would use it for commuting, recreation, and open space were it to be preserved.

Rails to Trails Conservancy is a 501(c)(3) non-profit corporation with over 86,000 members, including over 2200 members in New Jersey and over 5500 in neighboring New York. RTC is dedicated to preserving otherwise-to-be abandoned railroad corridors for alternative and future public use, including possible future rail reactivation and interim use as trails. RTC members seek to preserve the Harsimus Branch for trail, rail and other compatible public uses.

Although Conrail knows that the Embankment Coalition, RTC and numerous other non-governmental organizations are interested in the Harsimus Branch (that was apparent to the railroad as a result of proceedings in F.D. 34818), Conrail failed to seek any comment from any them for purposes of preparing the ER/HR.

Prior Proceedings Germane Here

All three of these Commenters participated as parties applicant in City of Jersey City, et al., Petition for a Declaratory Order, STB Finance Docket 34818. The Harsimus Branch is not really a "branch." It is the historic mainline for freight of the old Pennsylvania Railroad. It terminated in the Harsimus Cove, directly across the Hudson River from the World Trade Center, lost on 9/11. Conrail unilaterally and unlawfully reclassified this obvious rail line as a spur and purported to engage in an illegal de facto abandonment of the Branch without any prior authorization from this Board.² Conrail tore out bridges and tracks, all without prior STB or ICC authorization. Although Conrail claims to have offered to sell the line to a local redevelopment agency for redevelopment, the railroad rejected Jersey City's separate efforts to acquire the line for transportation uses (including possible light rail and trail). Knowing that the City was preparing eminent domain proceedings, Conrail instead purported to sell, again without any prior STB authorization, the entire Embankment portion of the Harsimus Branch to a land assembler (referenced herein as "SLH Properties") for unlawful non-rail purposes (namely, demolition and development for townhouses). More recently, SLH has proposed turning the Embankment into a parking garage for large towers erected on top of it.

Prompted by Conrail's precipitous and unauthorized sale of the Embankment and SLH Properties' commencement of demolition of structures adjoining the Embankment, Commenters and then-

² Under ICCTA and its predecessor statute, a freight railroad may not abandon a rail line without prior STB (formerly ICC) authorization. See 49 U.S.C. 10903.

Assemblyman Manzo petitioned this Board for a declaratory order that the Harsimus Branch was a line of railroad under the Board's preemptive jurisdiction. This Board granted the relief sought by Commenters in a Decision served August 9, 2007 in F.D. 34818. SLH Properties sought administrative reconsideration, which was denied in a Decision served December 19, 2007. Conrail and SLH Properties have now filed at least five petitions for judicial review in the U.S. Court of Appeals for the D.C. Circuit from this Board's determination. SLH Properties has used the alleged pendency of these petitions as an excuse to continue its litigation in New Jersey state courts to force City of Jersey City to issue it demolition permits and subdivision approvals for the Harsimus Branch notwithstanding this Board's preemptive jurisdiction. Conrail has supported SLH Properties in state court filings.

As this summary of Conrail's course of conduct demonstrates, Conrail has engaged in anticipatory demolition, and by Conrail's proposed invocation of the class exemption for abandonment authority, the railroad seeks to reap the benefits of that illegal conduct by foreclosing various federal and state remedies otherwise available to the Commenters had Conrail and its chosen "developer" SLH Properties not engaged in unlawful anticipatory demolition.

Conrail in its ER/HR filing essentially conceals this history. The only reflection of Conrail's illegal past actions manifest in its ER/HR is the railroad's statement that it has no plans to dispose of track, track material or crossties, because those have been removed (ER, p.2), and its statement that it has removed all the bridges (HR, p. 9). Indeed the railroad in fact has torn out the rail, ties and bridges. But far from indicating that less environmental and historic review is needed, Conrail's statements about removal of track and ties confirm instead that Conrail has engaged in an illegal anticipatory demolition of the Harsimus Branch. Conrail's acknowledgment of unlawful anticipatory demolition of the line would be even more evident if Conrail in its ER/HR had directly owned up to the fact that it has illegally purported to alienate the entire property for non-rail purposes without any prior STB authorization. As it is, a careful reading of Conrail's attachments to its ER/HR does encompass an indirect admission of illegal anticipatory alienation.³ As explained later, Conrail's clear anticipatory

³ In all of its February 7, 2008 letters attached to its ER/HR requesting comment from public agencies, Conrail states that "the underlying right-of-way was either sold or reverted to various parties." Although its ER/HR does not mention the issue, the quoted statement by Conrail is an admission of anticipatory

demolition and plethora of illegal actions in respect to this property bars the Board from granting the relief sought by Conrail, unless the Board first consults with the Advisory Council on Historic Preservation (ACHP) and makes special findings.

Comment on Milepost Designations

Railroad milepost designations are sometimes arbitrarily changed or assigned, and the designations employed by Conrail here for the Harsimus Branch are a case in point. Historically, the portion of the Branch between Luis Munoz Marin Boulevard (former Henderson Street) to CP Waldo (near Waldo Avenue) was designated as (approximately) Milepost 1.3 to (approximately) Milepost 2.54 on relevant track charts and maps.⁴ Conrail in its ER/HR may be using arbitrarily revised milepost designations it has assigned as a result of unilateral reconfigurations of its system. On the other hand, Conrail may be attempting to confuse the issue for purposes of its pending petitions for judicial review in the D.C. Circuit from this Board's decisions in F.D.

destruction of the rail line, but also it is misleading and erroneous. In particular, there can be no reversion of a regulated rail line until this Board authorizes an abandonment. E.g., Philips v. Denver & R.G. RR, 97 F.3d 1375, 1377 (10th Cir. 1996) (no reversion to adjoining landowners due to non-use: "if de facto abandonment were sufficient to establish abandonment..., a railroad could easily circumvent ICC's oversight and regulation by simply terminating its use of a railroad line"). Conrail's misleading statements are inexcusable, since the railroad knows the principles involved. After all, Conrail urged those principles and their application in Chelsea Property Owners - Abandonment -- Portion of the Consolidated Rail Corporation's West 30th Street Secondary Track in NY, NY, 8 ICC 2d 773, AB 167 (Sub0no. 1094), served Sept. 16, 1992, aff'd sub nom. Consolidated Rail Corp. v. ICC, 29 F.3d 706 (D.C. Cir. 1994). A deep irony with respect to the Harsimus Branch is the fact that Conrail vigorously supported corridor preservation of the elevated rail structure in the Chelsea case which arose in Manhattan on an old branch line, but across the Hudson River in Jersey City Conrail has sought to frustrate preservation of a similar structure on the former Pennsylvania Railroad freight mainline. Conrail's inconsistency is arbitrary and inexplicable.

⁴ See, e.g., Conrail, Maintenance Program and Track Chart, Atlantic Region, New Jersey Division, corrected to 1-1-80 (relevant pages set forth as Exhibit A to Petition for Declaratory Order dated 11 January 2006 in Finance Docket 34818, on file with STB).

34818.

For purposes of these comments, Commenters intend their references to the Harsimus Branch to mean that portion of the Branch indicated in Conrail's ER/HR map as MP 0 to MP 1.36, without any admission that these milepost designations in fact correspond to historic designations for the Branch.

Environmental Impact Statement

Although the agency ordinarily prepares only an "environmental assessment" (EA) for purposes of proposed rail abandonments, it is well established that more is required in circumstances in which the abandonment affects important cultural or historic resources and presents controversial outcomes. See The Baltimore and Ohio Railroad Co. - Abandonment - in Montgomery County, Md. and the District of Columbia, AB 19 (Sub-no. 1) (ICC), served May 21, 1986. In the referenced proceeding, this Board's predecessor required an EIS when the line bifurcated a linear national park (C&O Canal) and posed controversial outcomes in Georgetown (District of Columbia) and Montgomery County (Maryland).

For similar reasons, this Board must prepare a full environmental impact statement (EIS) before it may lawfully act in this proceeding. If SEA prepares an EA, the EA should and must conclude that a full EIS is necessary. Pursuant to 42 U.S.C. 4332(2)(C), a federal agency may not take a licensing action without first preparing an environmental impact statement (EIS) where the licensing action may "significantly" affect environmental quality. This Board's regulations specifically indicate that the Board is governed by the Council on Environmental Quality's (CEQ's) regulatory definition of the term "significantly." See 49 C.F.R. 1105.5(a). The CEQ definition of "significantly" is found at 40 C.F.R. 1108.27. That regulation indicates that determinations of significance must take into account context and intensity.

As to context, it indicates that in the case of a site-specific action, significance is determined by effects upon the locale of the action rather than the world as a whole. 40 C.F.R. 1508.27(a). In addition, both short and long term effects "are relevant." Id. A rail abandonment licensing action within a City does not lose its significance merely because it is felt primarily in one location (here, Jersey City). The proposed action of Conrail also will also be permanent (not just short term) in its adverse effects.

As to intensity, the regulation lists a number of factors that bear on this issue. For example, section 1508.27(b)(2) indicates that an action may be significant due to impacts on public safety and health. Section 1508.27(b)(3) indicates an action may be significant owing to "unique characteristics of the geographic area such as proximity to historic or cultural

resources." Section 1508.27(b)(4) states that the degree to which the environmental impacts are controversial bears on significance. Section 1508.27(b)(8) states that the "degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant ... historical resources" also bears on significance. Finally, section 1508.27(b)(10) states that "whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment" relates to significance.

All the factors enumerated above support the conclusion that the proposed action by Conrail raises significant issues requiring an EIS. The Embankment is a earthen fill structure between tall stone walls. It is located in close proximity to residential housing. Conrail's chosen "developer," SLH Properties, plans either complete demolition of the Embankment for street level townhouses, or gutting it for parking for high rise condominiums or apartments on top. In either case, massive amounts of earth must be dug out and removed. The potential for adverse health effects from airborne debris and safety impact from heavy construction and dump truck traffic is extreme and completely unanalyzed in Conrail's bare bones ER/HR. This is a significant impact per section 1508.27(b)(2).

Conrail's proposal here will unquestionably cause destruction of the Embankment. Yet the Embankment is eligible for listing on the National Register, and is also protected under state and local law. See Exhibit A (National Register information) and Exhibit C (state and local historic status determinations). Conrail has unlawfully purported to sell the Embankment without STB authorization to SLH Properties, which is actively suing Jersey City to force Jersey City and its agencies to authorize complete demolition of the Embankment, and its conversion into townhouses. See Exhibit B (summary of SLH litigation). Abandonment authorization will therefore result in destruction of an historic asset, and therefore will "adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places" per section 1508.27(b)(8).

In addition, the Embankment is immediately adjacent to two National Historic Districts (see Exhibit G), which will be detrimentally impacted by its demolition. See Verified Statement by Mr. James in Ex. G. Commenters have not had time to identify and inventory the various structures in the NHD's which will be adversely impacted (as explained later, it is not Commenters' legal duty to do so, even if there were time which there is not). However, the New Jersey SHPO has advised us that Pennsylvania and New Jersey SHPO's have recognized a National Register-eligible

Pennsylvania Railroad Philadelphia to New York Historic District (HD).⁵ While we currently understand this HD encompasses lines used for passenger service, the New Jersey SHPO has also recognized the historic status, but not yet fixed the boundaries of, an earlier in Jersey City. The relevant HD in this case is called the "New Jersey Railroad Bergen Cut Historic District." It is our understanding that the Harsimus Branch is, or would likely be, encompassed in that HD.⁶

Both the impact on the Embankment and on adjoining NHD's, and the possibility of adverse impact on individual but unidentified historic structures in the NHD's indicate that Conrail's proposal raises significant adverse impacts per sections 1508.27(b)(3) & (8). Loss of the end of the Harsimus Branch, as proposed by Conrail, would adversely impact the New Jersey Railroad Bergen Cut Historic District as well, also posing significant adverse impacts per the regulation.

Conrail's actions are nothing if not controversial. They spawned a declaratory proceeding before the Board in an effort to obtain some compliance with the law (Finance Docket 34818), and SLH Properties has launched a barrage of litigation against Jersey City, one of its employees, and its Historic Preservation Commission to obtain permits and authorizations to demolish the Embankment and to convert it into non-rail uses without any prior STB authorization either for sale of the Harsimus Branch to SLH Properties for rail use, or for abandonment of the Harsimus Branch so it may be sold to SLH Properties as a tear down property. All this is in the face of public support for preserving the railroad corridor, and the Embankment, intact for alternative public uses.⁷ Clearly the environmental effects of

⁵ See Letter, Pa. SHPO to Director, Bureau of Design, PA DOT, August 11, 1994 (references PRR, Philadelphia to NY, district); Letter, NJ SHPO to Supervising Env. Specialist, Div. Of Env. Resources, NJ DOT, May 7, 2004 (same).

⁶ NJ SHPO has recognized this HD is eligible for the National Register since at least May 21, 1999 (see Letter of that date, NJ SHPO to Bureau of Env. Services, NJ DOT, at p. 3). SHPO further advises that individual structures within that HD and on the Harsimus Branch other than the Embankment have also been determined eligible for the National Register in their own right. See also Exhibit H.

⁷ One manifestation of support for preservation and alternative public use is the long list of political leaders and private organizations that commented in support of the Petition for a Declaratory Judgment filed by Commenters and former Assemblyman

Conrail's proposal are already "highly controversial," not just "likely to be highly controversial." Again, under section 1508.27(b)(4), an EIS is required.

Finally, Conrail's proposal "threatens violation of Federal, State, or local law and requirements imposed for the protection of the environment" per section 1508.27(b)(10). Conrail is obligated under New Jersey state law to grant a right of first refusal to any state or local agency to buy a rail line for which the railroad applies to the Board for abandonment authority. NJ Stat. 4:12-125.1. Conrail apparently intends to claim that it can evade this requirement because it illegally sold the line to SLH Properties without seeking this Board's authorization. This constitutes a threat to violate a state law by way of an outright violation of a federal requirement that Conrail seek an abandonment authorization from the Board before it sells its interests to another for tear down and non-rail use.⁸ In addition, unless the Board orders SLH to reconvey, or conditions any grant of abandonment authority upon SLH reconveying all it purportedly received from Conrail, Conrail's actions threaten to render nugatory statutes like 49 U.S.C. 10905, which authorizes this Board to require Conrail to maintain its interests in property for 180 days post-abandonment to permit public acquisition. Under section 1508.27(b)(10), Conrail's anticipatory demolition and unauthorized sale to SLH in circumvention of this Board's statutory authority (and the public's rights thereunder) also trigger an EIS requirement.

In sum, Conrail's proposed abandonment significantly adversely affects the environment, and this Board may not authorize it prior to completion of the EIS process. SEA should advise the Board to undertake an EIS. If SEA prepares an EA, the EA should so advise the Board.

Compliance with Sections 106 and 110 of the NHPA

Manzo in Finance Docket 34818. See Decision in F.D. 34818 served August 9, 2007, at p.1 n.2.

⁸ This is not a situation involving sale of one of the sides of a right of way parcel to an adjoining property owner for additional parking, or for a farm or garden use, where the railroad retains all that it needs for continued rail operation, nor is this a sale of air rights or the underlying fee with the railroad retaining a railroad easement. Instead, Conrail here purported to sell all and to retain nothing. In any event, the Embankment is structure which cannot reasonably be subdivided. It is either viatically used or not viatically used. Conrail simply made an unlawful sale in violation of 49 U.S.C. 10903 and the integrity of this Board's procedures.

The portion of the Harsimus Branch at issue in this proceeding is largely composed of the Harsimus Embankment, which is eligible for listing on the National Register. In addition, the Embankment portion of the Branch is surrounded by two National Historic Districts, which will be adversely affected by Conrail's proposed action. We have not had time to identify all adversely affected sites and structures, but are aware that there are many. A typical example is the national Register-listed St. Anthony of Padua Church. We have attached some documentation concerning the historic resources affected, and the adverse impacts which will flow from Conrail's action, in Exhibits A, C & G. In addition, we have also noted that NJ SHPO advises us that the entire Harsimus Branch is, or is likely to be, within the previously recognized National Register-eligible New Jersey Railroad Bergen Cut Historic District. However, as the binding regulations of the Advisory Council on Historic Preservation (ACHP) make clear, identification of historic resources is the responsibility of Conrail, and ultimately of the STB, and it is not the responsibility of a commenting party or the state historic preservation officer. See 36 C.F.R. 800.5. This would especially be the case in the brief time provided the public and the SHPO to comment in the "class exemption" process. Conrail's failure to identify, much less discuss, historic resources is deplorable since the record in F.D. 34818, all of which has long been available to Conrail, is far more detailed in respect to historic resources affected by destruction of the Harsimus Branch than Conrail's truncated discussion even begins to indicate. This gives the appearance that Conrail is attempting to hide the issue, or playing a game of "catch me if you can."

1. Conrail's proposal is an "undertaking" requiring section 106 compliance. A federal licensing action for an abandonment unquestionably constitutes an "undertaking" for purposes of section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. 470f. Before granting such a license, the Board must "take into account the effect of the undertaking on any district, site, building, structure or object that is included in or eligible for the National Register." Id.

Although the Board frequently grants exempt abandonment licenses prior to completion of section 106 review, it inevitably then stays the effectiveness of the license pending completion of the section 106 review process. However, that ordinary approach is not sufficient here. The Harsimus Embankment is a significant historic property, and abandonment authorization will unquestionably result in its irreparable destruction. (SLH with Conrail's active support is suing the City as these comments are prepared in order to hasten the destruction of the Embankment.) Under the circumstances, this "class exemption" proceeding is too controversial for class exemption procedures in the first

instance. In any event, the Board's approach of granting class exemptions and then staying the effectiveness is foreclosed under section 110(k), 16 U.S.C. 470h-2(k), in the facts of this case, as discussed in part 2 below.

As already noted above, Conrail's HR is perhaps most dramatically inadequate when it comes to identification of historic resources within the "undertaking's" area of potential effects. Conrail in its HR fails to reveal at all the information on the historic nature of the Embankment which Commenters placed of record in F.D. 34818. The railroad's discussion is limited to summarizing some comments that it received from the Hudson County Department of Public Resources, Division of Planning. See Conrail HR at p. 10. The HR otherwise simply says that "[t]he New Jersey State Historic Preservation Office has been consulted." *Id.* But that consultation was limited to sending SHPO a letter dated February 7, 2008, that had a return date after Conrail prepared and submitted its HR; that contained misleading information about "reversions"; and that had no information about historic resources already known to Conrail. With respect, this is not a meaningful HR, but a kind of superficial "punt." Conrail, and ultimately STB, have the responsibility to identify historic resources, and cannot shift this burden to the public or to SHPO. 36 C.F.R. 800.5.

The Conrail HR does not even identify both the National Historic Districts adjoining the Harsimus Branch, let alone individual sites and structures that are historic in those districts, even if immediately adjacent to the line. Even if the SHPO or other public agencies were legally obligated to comply with Conrail's unilaterally imposed deadlines (both to supply Conrail with information, and then to comment on the HR), which SHPO and other public agencies are not, the HR gives the SHPO and the public little or no information, and thus aggravating the unacceptably abbreviated time frame, for purposes of providing any meaningful response.

This proceeding must not go forward until an inventory of affected sites, districts and structures is compiled, and a proper analysis of impact is submitted. It should not be the duty of either New Jersey or the interested public to compile the information that the railroad is supposed to compile. In the circumstances here, Conrail's purported ER/HR should and must be rejected as clearly inadequate.

Conrail utterly fails to provide any analysis, let alone a reasonable analysis, of the "undertaking's" impact on historic properties. The Section 106 regulations make clear that "adverse effects on historic properties include ... '[p]hysical destruction of or damage to all or part of the property, ... and ... [t]ransfer, lease or sale of property out of Federal ownership or control without adequate and legally enforceable restrictions or

conditions to ensure long-term protection of the property's historic significance." 36 C.F.R. 800.5(a)(2). Conrail's sale of the property to SLH Properties was without any preservation conditions, and Conrail's destruction of bridges and other contributing historic features of the Embankment unquestionably constitutes an adverse effect.

The Board is obligated to consult with the SHPO, the ACHP, and other consulting parties, in order to resolve adverse effects. 36 C.F.R. 800.5(d)(2). Commenters are uniquely affected members of the public and their demonstrated interest in the Harsimus Branch and the 6th Street Embankment render them appropriate consulting parties to the Section 106 process. Id. 800.1(c)(5). Accordingly, this comment letter constitutes a request that Commenters be accorded consulting party status in the Section 106 process. Id. 800.3(f).

2. Anticipatory demolition. NHPA section 110k, 16 U.S.C. 470h-2(k), bars an agency like STB from granting a license where the applicant has intentionally engaged in conduct adversely affecting an historic resource in evasion of section 106 review. Although the Harsimus Branch is clearly a rail line for which STB licensing action is needed before its bridges and structures are destroyed and the property sold off for non-rail use, Conrail intentionally did exactly that. Conrail admits in its ER that it took out all track and ties, and removed the bridges. It does not disclose, but cannot deny, that it also sold off the Embankment to SLH Properties in 2006 for demolition and non-rail purposes, all without any STB authorization. In consequence, Conrail acted without any agency compliance with Section 106, and thus without the imposition of conditions fostering preservation of the Embankment, or barring the railroad for at least 180 days from alienating the line other than for public purposes. A clearer case of anticipatory demolition and prejudice to meaningful section 106 review is difficult to imagine.

Where an applicant (like Conrail) intentionally and adversely affects a historic property prior to applying for a permit that otherwise would be subject to Section 106, STB may not authorize an abandonment at all here, unless -- "after consultation with the [Advisory] Council [on Historic Preservation]" - it "determines that circumstances justify granting" the license "despite the adverse effect created or permitted by the applicant." 16 U.S.C. 470h-2(k). The record demonstrates the intentional destruction of historic properties as part of a series of actions to evade STB's jurisdiction over the line itself as well as the agency's responsibilities under Section 106. Accordingly, the Board is precluded from authorizing the abandonment, even if the authorization is stayed pending compliance with Section 106, until the Board has engaged in further consultations not just under Section 106, but also

with ACHP as required in Section 110(k).

Since STB on this record is precluded from going forward absent Advisory Council consultation and special findings, further processing of Conrail's "class exemption" is beside the point. Conrail should be directed to file some kind of case-specific proceeding, and the Board should issue a procedural schedule that provides for proper consideration of environmental concerns (an EIS), and proper compliance with NHPA sections 106 and 110 (consultation with ACHP after a meaningful inventory of historic resources is compiled and the implications for them analyzed). SEA's EA, if SEA goes forward with an EA, should so find and recommend in the EA.

Environmental and Historic Conditions

1. Reconveyance condition. The most reasonable means to mitigate the harmful consequences flowing from Conrail's unlawful conduct to date is to require reconveyance of the Embankment to Conrail before this Board acts upon any abandonment application which Conrail may pursue. If contrary to these comments, this Board were to grant Conrail's proposed class exemption, then SEA should recommend that the Board either order reconveyance, or condition the effectiveness of any abandonment authorization, upon reconveyance, of the entire Harsimus Branch, including its Embankment, as purportedly transferred to SLH Properties.

This condition is amply justified on rail regulatory as well as environmental and historic preservation grounds. Conrail lacked authority to transfer the property for non-rail purposes, and reconveyance is an appropriate remedy. Accord, The Land Conservancy of Seattle and King County - Acquisition Exemption - in King County, WA, F.D. 33389, served Sept. 26, 1997 (re-conveyance ordered where Board finds that original conveyance was for non-rail purposes, even when authority for that conveyance was timely sought and obtained). Absent reconveyance, SLH Properties with Conrail support will continue to actively seek to demolish the Embankment and to construct townhouses or new skyscrapers on top of it as SLH recently proposed. Indeed, SLH with Conrail support continues actively for permits to demolish and reconfigure the Embankment. Absent reconveyance, this Board's jurisdiction may be totally ignored. Even if this Board elects not to assert direct jurisdiction over SLH, the Board can readily condition any abandonment authorization upon Conrail first obtaining reconveyance. It is unconscionable that SLH, with Conrail support, pursues permits and demolition, driving up the cost of acquiring and restoring the Embankment, in collaboration with Conrail, when at the same time this Board's jurisdiction bars Jersey City from exercising eminent domain to acquire the property. See City of Lincoln v. STB, 414 F.3d 858 (8th Cir. 2005) (City may not use eminent domain to acquire unused portion of rail corridor not authorized for abandonment). Without

appropriate handling of the reconveyance issue, federal and state remedies to ameliorate adverse environmental and historic preservation impacts may be unavailable, unworkable, or rendered prohibitively expensive due to the misconduct and unlawful actions of Conrail. This agency should protect its jurisdiction and the fundamental integrity of its processes and applicable federal environmental, historic preservation, and public use requirements by ordering reconveyance (or conditioning relief to Conrail upon reconveyance), as in Land Conservancy.

2. Public use condition. Conrail's ER almost completely evades the issue of suitability of the properties proposed for abandonment for alternative public use. The ER at p. 3 references only information provided by Hudson County in response to Conrail's February 7 inquiry letter. The ER ignores the fact that Hudson County requested Conrail to consult with other agencies with an interest in the Harsimus Branch. Even more significant, Conrail well knows that the Commenters have, and that this Board has found (Decision served August 9, 2007, at pp. 7-8), intense public interest in preservation of, and alternative public use for, the Harsimus Branch. As Commenters and many others pointed out in F.D. 34818, Jersey City is interested in use of the Harsimus property for rail mass transit (as Mayor Healy's March 4 letter indicates, part of the Hudson Street rail corridor is already used for that purpose) and for trail purposes. See Exhibit D. Other parties are interested in the Harsimus Branch as a park and greenway, and as an historic landmark demonstrating the past history of Jersey City as a key rail hub. See Exhibits D & E. It is undeniable that the Harsimus Branch is the prime, and indeed the only, route for the East Coast Greenway to reach New York City from Philadelphia. See Exhibit E. Conrail's lack of discussion of the issue of alternative public use is on a par with the rest of its inadequate and superficial ER/HR.

Under 49 U.S.C. 10905, this Board must find whether properties that are involved in a proposed abandonment are "appropriate for public purposes, including ... forms of mass transportation, conservation, ... or recreation." In any environmental documentation prepared by SEA, SEA must and should find that the Harsimus Branch is appropriate for public purposes.

In addition to a reconveyance condition, Commenters expect to request STB to impose a public use condition, also authorized by section 10905, barring Conrail from disposing of any interest in the Harsimus Branch for 180 days from the effectiveness of any abandonment authorization for any purpose other than a public purpose. SEA should recommend that issuance of such a condition, which Commenters intend to request at the appropriate point in these proceedings. SEA should further recommend that the condition, in order to be meaningful, should only begin to run

once all other "stays" on the effectiveness of any abandonment application have terminated.

3. Mitigation conditions generally. Conrail's defective HR claims at p. 10 that "there are no adverse environmental impacts" and that as a result mitigation is "inapplicable," evidently in the sense of being irrelevant. With respect, granting the license sought by Conrail in the unique anticipatory destruction circumstances here threatens a very serious, obvious and incontrovertible adverse environmental impact: the complete destruction of the National Register-eligible Harsimus Embankment and the dismemberment of the National Register-eligible New Jersey Railroad Bergen Cut Historic District. Conrail knows that: the historic status of the Embankment was pointed out repeatedly in the filings in Finance Docket 34818 in which Conrail was a party.

Conrail's failure to acknowledge adverse environmental impacts renders its discussion of mitigation totally unreliable and flawed. During an EIS process, means and conditions to mitigate the adverse environmental consequences flowing from Conrail's illegal actions for which it now seeks licensing sanctification may be addressed.

Severance

The Hudson Street Industrial Track by Conrail's mapping does not intersect the Harsimus Branch and is a separate line. The issues relating to that Track are separate from the Branch, and it is confusing to attempt to deal with them in the same proceeding, much less the same ER/HR. Conrail should seek separate abandonment authority in a different proceeding for each.

Comments and Objections on Specific Portions of ER/HR ER p. 1, item 1 (proposed action).

Commenters object to processing the Hudson Street Industrial Track in the same proceeding as the Harsimus Branch. The lines per Conrail's "Exhibit A" are not even connected.

Conrail's statement that it does not plan to dispose of structures is misleading. The National Register-eligible Harsimus Embankment remains intact.

ER p.2, item 2 (transportation system). Owing to Conrail's anticipatory destruction and purported illegal sell-off of the Branch, the license action sought by Conrail will result in destruction of the last intact transportation corridor into already congested Jersey City, and the addition of hundreds or thousands of additional motor vehicles on the over-taxed street grid. Jersey City desires to retain the rail corridor intact for transportation use to alleviate transportation problems, not add to them as Conrail's proposal attempts to guarantee.

ER p.3, item 3 (land use). Conrail's contention that it consulted with Jersey City and others by letter on February 7 is

one of the most disingenuous claims in the Conrail ER. Conrail through SLH in a sense has been in relatively constant consultation with the City for the last two years, in that SLH Properties, with now active Conrail support (Conrail filing briefs in favor of SLH positions), has sued the City because the City has postponed or denied local permits for the destruction of the Harsimus Embankment. These permits have been withheld because Conrail's efforts do in fact conflict with Jersey City land use plans, or pose significant issues which need to be addressed. Conrail wrongly fails to reveal that the City has actively sought to acquire the Embankment, and that Conrail in the face of the City's expression of interest, unlawfully transferred it to SLH Properties for non-rail purposes without STB authorization.

ER p. 4, item 4 (energy). Jersey City seeks to preserve the Harsimus Branch in order to preserve it for rail transportation to alleviate urban congestion. This has energy-saving implications.

ER p. 4, item 5 (air quality). Jersey City is a nonattainment air quality area. Preserving the Harsimus Branch will assist in addressing air pollution in the future. In addition, if Conrail is successful in demolishing the Harsimus Embankment, huge amounts of possibly contaminated earthen fill must be trucked out of Jersey City for disposal. This raises unaddressed air quality issues.

ER p. 5, item 6 (noise). Salvage of the Embankment will raise noise issues, just as it raises air quality issues.

ER p. 5, item 7 (safety). Conrail's claim of no safety impacts again ignores salvage of the Embankment. The earthen fill in the Embankment is potentially contaminated. Its removal raises risks to public safety from airborne particles and from dump trucks and heavy equipment operating in the middle of high density residential areas adjacent to downtown Jersey City.

ER p. 5, item 8 (biological resources). Conrail's claim to have consulted is misleading. It sent out a letter with a return date after it prepared its ER. As Exhibit F, attached hereto demonstrates, the Embankment does provide habitat, and a serious attempt to review biological resources manifest in it should be mounted.

ER pp. 6-7, item 9 (water). Conrail's claim that "no clearing, grading, or alteration of the topography will result from abandonment" is clearly false. Conrail is participating in state court litigation to compel Jersey City to allow demolition of the Embankment. This constitutes a huge amount of clearing, grading and alteration of topography. The Embankment is a very large structure. Since Conrail ignores the Embankment, its claim that no pollutants will be released should likewise be ignored. There needs to be some kind of meaningful analysis of what will

happen if Conrail gets away with destruction of the Embankment.

The Embankment contributes to flood control and to control of Combined Sewer Outflows (CSO's) into the Hudson River. Commenters have grants or grant applications pending for acquisition funds for the Embankment on this basis. Destruction of the Embankment may well affect water quality.

ER p. 7, item 10 (mitigation). Conrail is simply wrong in its assertion of no adverse environmental impacts. Complete destruction of a National Register-eligible historic resource (the Harsimus Embankment) is a significant adverse environmental impact, as discussed above. In addition, loss of the corridor significantly adversely affects two National Historic Districts and an additional National Register-eligible district, forecloses the East Coast Greenway, and unreasonably truncates transportation options for Jersey City.

Conrail's related claim that mitigation is "inapplicable" in the sense of being irrelevant ignores reality. Conrail simply seeks to avoid any mitigation of the significant adverse environmental impacts flowing from its actions. Conrail's attempt to ignore mitigation is one of the reasons a full EIS process is needed here. The railroad's filings to date, and its position in respect to the parties, indicate that the railroad is actively avoiding mitigation of the adverse consequences of its unilateral actions in connection with the Harsimus Branch.

HR p. 8, proposed action. The Hudson Street Industrial Track and the Harsimus Branch should not be combined in one proceeding for the reasons previously stated.

HR p. 8, item 1 (map). The map Conrail attaches obviously does not meet the requirements of the regulation. It is not equivalent to a topographic map and it certainly does not show the national historic districts, buildings and other structures of historic significance near the proposed abandonment. The HR should be rejected on this ground.

HR p. 8, item 2 (description). Conrail's description is obviously inadequate. The Harsimus Branch in fact runs from the Palisades down to the Cove, in downtown Jersey City, and bounds two National Historic Districts. The two Districts in turn are comprised largely of residential townhouses. See last sentence in HR item 1 comment above.

HR p. 8, item 3 (photographs). Conrail ignores the surrounding National Historic Districts, let alone nearby buildings and structures of historic significance. See last sentence in HR item 1 comment above.

HR p. 9, item 4 (construction/destruction of structures). The dates given by Conrail are either confusing to us or do not correspond to the actual dates of construction, replacement and destruction compiled for historic preservation purposes. See last sentence in HR item 1 comment above.

HR p. 9, item 5 (carrier operations). The Harsimus Branch was the freight terminus for the Pennsylvania Railroad system and has a rich railroad and cultural history totally ignored by Conrail. Conrail also ignores the City's interest in retaining the Branch intact for future rail reactivation, and it further ignores the efforts in which SLH Properties with Conrail support is engaged to destroy the Embankment. See last sentence in HR item 1 comment above.

HR p. 9, item 6 (documents). Conrail mentions only some microfiche cards containing engineering drawings. During discovery in F.D. 34818, Conrail's attorneys claimed to have computer files on the Branch as well but claimed the files were dated and that retrieval would be expensive and time consuming. In addition, Conrail fails to disclose that it has the nomination papers and various other related documents underlying the determination that the Embankment is eligible for listing in the National Register. Conrail's response to item 6 is thus plainly misleading and inadequate. See last sentence in HR item 1 comment above. This is also the first Commenters have heard of 600 microfiche cards. We request that all these cards be supplied to SHPO, this agency, and Commenters for review, per 36 C.F.R. 800.11(a): "the agency official shall ensure that a determination, finding, or agreement ... is supported by sufficient documentation to enable any reviewing parties to understand its basis."

HR p. 10, item 7 (opinion regarding historic matters). Conrail has copies of the Embankment's National Register-eligibility, as well as various state and local historic designations. These are in pleadings Commenters served on Conrail in F.D. 34818. The National Register nomination of the Embankment raises the possibility that earlier elevated rail structures are buried within the Embankment. Since Conrail ignores the nomination papers, there is no reason to credit to anything other than willful blindness or semantical word play Conrail's statement that it does "not believe there is a likelihood of archeological resources...."

Conrail's discussion of historic resources ignores a host of information available to the railroad, and only discusses historic resources in terms of remarks made by the Planning Director for Hudson County's Department of Public Resources in response to the railroad's February 7 letter.

Conrail should have examined its own files. This Board relies on the applicant to compile information. Conrail has failed to discharge this duty to compile information in good faith. Instead, the railroad circulated a misleading letter asking overworked public employees or elected officials to offer up some comments, and then prepared and sent in a boilerplate ER/HR before the return date of its misleading letter, which

ER/HR to the extent useful at all is limited solely to acknowledging information from the one comment (from Hudson County) that came in (early). This fundamentally fails to comply with federally-required environmental and historic preservation processes. Conrail is supposed to compile the information, not shunt the duty to others, especially by vague and uninformative letters containing misinformation and setting forth arbitrary return dates which the railroad ignores. Conrail is not some little shortline that acquired a line and lacks records of it, or knowledge of the relevant legal processes. Nor is this a line which is irrelevant and non-controversial. Conrail has no excuse for its actions. See last sentence to HR item 1 comment above.

HR p. 11, item 8 (subsurface disturbance). Conrail appears to admit that the Harsimus Embankment is contaminated based on 2005 sampling. A full report of that contamination should and must be made available for comment. See last sentence to HR item 1 comment above.

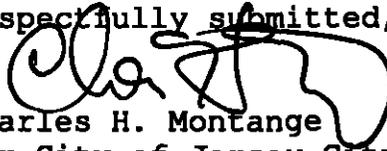
Conclusion

The ER/HR filed by Conrail is inadequate to support environmental and historic review of Conrail's proposed action. Conrail's proposed licensing action is based on conduct amounting to anticipatory demolition of the Harsimus Branch and its National Register-eligible Embankment. Abandonment of the Branch will adversely affect the environment and in the circumstances here result in the demolition of the Embankment. Full EIS review is required. In addition, 16 U.S.C. 470h-2(k) bars any grant of a license here until ACHP has been consulted and special findings have been made. Any use of a "class exemption" for the Harsimus Branch is inappropriate, and the Branch should be severed from the Hudson Street Industrial Track in all further proceedings.

Commenters are supplying these comments as quickly as possible in light of the serious flaws in Conrail's proposal and use of class exemption procedures to date. Commenters have not had time to address fully or adequately the environmental and historic resource issues raised by Conrail's actions and proposal. Conrail certainly has not attempted in any serious fashion to illuminate those issues.

SEA should recommend a full EIS, dismissal of any class exemption sought by Conrail, a full Section 106 process, consultation with ACHP per Section 110(k) before any abandonment is authorized, granting of consulting party status to commenters, and other relief in accordance with these comments.

Respectfully submitted,



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

Of counsel:

Andrea Fester
General Counsel
Rails to Trails Conservancy
2121 Ward Court, NW, 5th Floor
Washington, D.C. 20037

Exhibits:

- A - Verified Statement of Richard James and National Register Nomination for Harsimus Embankment (Exhibit E to Petition for Declaratory Order in F.D. 34818).
- B - Summary of SLH litigation against City
- C - Various historic resource materials: notification to Conrail at Embankment is on the New Jersey Register of Historic Places as of Dec. 29, 1999; Certificate of Eligibility dated Feb. 17, 1999; City Ordinance 03-010 (designating the Embankment a local landmark).
- D - Declaration of Gregory J. Corrade (App. VII to the Opening Statement of Jersey City, et al., in F.D. 34818)
- E - East Coast Greenway Materials: Verified Statement of Elizabeth Body (App. V to the Opening Statement of Jersey City, et al., in F.D. 34818); Verified Statement of Stephen Marks (App. VI to the Opening Statement of Jersey City, et al., in F.D. 34818); map
- F - Botanical and Animal Survey, 2002-03
- G - Verified Statement of Richard James concerning adverse impacts to adjacent National Historic Districts; National Register Nomination papers/historic resource materials for two National Historic Districts abutting the Embankment; same for St. Anthony of Padua Church
- H - Material on New Jersey Railroad Bergen Cut Historic District

cc. Jersey City
Coalition
RTC
Mr. Terry Karshner, Deputy SHPO
NJ Historic Preservation Office
NJ Department of Environmental Protection
P.O. 404
Trenton, NJ 08625-0404
Mr. Enright (Conrail)

Exhibit A

***PAGES EXCERPTED ***

EXHIBIT R

Exhibit R

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Decision, Surface Transportation Board, docket number EP 695, dated May 13, 2010 (4 pages)

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 695

CONSOLIDATED RAIL CORPORATION'S SALES AND DISCONTINUANCES

Decided: May 13, 2010

On November 19, 2008, Consolidated Rail Corporation (Conrail), CSX Transportation, Inc. (CSXT), and Norfolk Southern Railway Company (NS) jointly filed a verified notice of exemption (Notice of Exemption), pursuant to 49 C.F.R. § 1152.50, for Conrail to abandon, and CSXT and NS to discontinue service over a 2.27 mile line of railroad in Hudson County, NJ, known as the “Lehigh Valley Main Line” (the Line). Consol. Rail—Aban. Exemption—in Hudson County, N.J., Docket No. AB 167 (Sub-No. 1190X); CSX Transp., Inc. — Discontinuance Exemption—in Hudson County, N.J., Docket No. AB 55 (Sub-No. 690X); Norfolk S. Ry.—Discontinuance Exemption—in Hudson County, N.J., Docket No. AB 290 (Sub-No. 313X).

In the Environmental and Historic Report that accompanied the Notice of Exemption, however, Conrail revealed that it no longer owns an interest in all portions of the line it sought to abandon. Conrail asserted that the proposed abandonment would have no effect upon regional or local transportation systems and patterns, noting that New Jersey Transit Corporation (NJ Transit) “took no issue with Conrail’s abandonment of the Line, and stated that it previously acquired portions of the Line[.]”¹ Conrail again disclosed its lack of ownership of the full line in addressing public health and safety issues and subsurface ground issues associated with the Line’s abandonment.² Attached to Conrail’s Environmental and Historic Report was a letter from NJ Transit in which it asserted “[n]o issue with Conrail’s ‘abandonment’ of the rail line, as we have previously acquired (from Conrail) portions of this right of way, upon which can be found the shop and yard complex for the Hudson Bergen Light Rail System.”³

Exactly what parts of the Line NJ Transit acquired is the source of some confusion, even between Conrail and NJ Transit. The same October 17, 2008 letter from NJ Transit to Conrail’s Associate General Counsel states, “Of the two parcels which Conrail alleges that they retain, NJ Transit has no interest in the parcel located between Chapel Avenue and Linden Avenue. The

¹ Notice of Exemption 12, Nov. 19, 2008.

² Id. 5, 10.

³ Id. 29.

other parcel, near Communipaw Avenue, appears to us to already be NJ Transit-owned property.”⁴ In its cover letter to many of the parties Conrail contacted to solicit environmental or historic comments about the Line, Conrail openly admitted that rail service was “previously discontinued” and that most of the underlying right-of-way has been sold to various parties.⁵ In addition, Conrail included two quitclaim deeds, dated August 29, 1996, and November 19, 1996, purporting to transfer part of the property that constitutes the Line to NJ Transit.⁶ Both deeds, in fact, appear to have been executed on behalf of Conrail by Robert Ryan, Conrail’s Director of Real Estate from October 1996 to July 31, 2009.

Questions regarding Conrail’s ownership interest (or lack thereof) in the Line have complicated this abandonment proceeding. CNJ Rail Corporation sought information from Conrail and subsequently filed a notice of intent to submit an offer of financial assistance (OFA), pursuant to 49 U.S.C. § 10904, for the Line, but for what part and for what value became a source of increasing confusion. Although, in our decision served concurrently today in Consolidated Rail—Abandonment Exemption—in Hudson County, N.J., Docket No. AB 167 (Sub-No. 1190X), we are exempting the Line from the OFA process, we continue to have serious concerns regarding what appears to be Conrail’s 1996 sale of a line without Board authorization.

As of the January 1, 1996, the effective date of the ICC Termination Act of 1996, a person other than a rail carrier may acquire a railroad line only if the Board issues a certificate authorizing its acquisition. See 49 U.S.C. § 10901(a). Similarly, a rail carrier providing transportation subject to the Board’s jurisdiction who intends to abandon or discontinue service over a line must file an application to do so with the Board. See 49 U.S.C. § 10903. The Board has promulgated regulations pertaining to section 10901 applications, see 49 C.F.R. § 1150, and abandonment and discontinuances of service, see 49 C.F.R. § 1152.

Pursuant to 49 U.S.C. § 10502, the Board has also established exemptions that allow parties to acquire lines of railroad or discontinue service on a line without using the Board’s detailed application procedures. However, to utilize those exemptions, a party must file a notice of exemption with the Board, allowing the Board and other interested persons an opportunity to challenge whether the proposed acquisition, abandonment or discontinuance is appropriate. See, e.g., 49 C.F.R. § 1150.32 (regarding exemption from 49 U.S.C. § 10901); 49 C.F.R. § 1152.50(c) (regarding exemption from to 49 U.S.C. § 10903).

There are statutory penalties for failing to comply with either 49 U.S.C. § 10901, § 10903, or the regulations promulgated to implement those provisions. Section 11901(c) states “a person knowingly authorizing, consenting to, or permitting a violation of sections 10901 through 10906 of this title [Title 49] or of a requirement or a regulation under any of those

⁴ Id.

⁵ See, e.g., Notice of Exemption 31, 35-39, 41, 43-48.

⁶ Conrail’s Sept. 11, 2009 Reply to Offerors’ Answer to Show Cause Order, V.S. of Ryan, Ex. C.

sections, is liable to the United States Government for a civil penalty of not more than \$5,000.”⁷ In addition, the Board may seek injunctive relief through a civil action to enjoin a rail carrier from violating § 10901, § 10903, or a regulation prescribed, order, or certificate issued under either of those sections. See 49 U.S.C. § 11702.

We are unable to locate any filing by Conrail, NJ Transit, or any other person seeking our authority or invoking an exemption to transfer title to any part of the Line prior to the Notice of Exemption Conrail filed with us on November 19, 2008. Similarly, we are unable to locate any filing by Conrail, NJ Transit, or any other person seeking our authority or invoking an exemption to abandon or discontinue service on any part of the Line prior to the November 19, 2008 filing of that same notice. Therefore, we are ordering Conrail to submit to us a full explanation of how and under what authority it came purportedly to transfer title to parts of the Line to NJ Transit. In addition, Conrail should explain when, under what authority, and under what circumstances it purported to discontinue service on the Line.

Finally, as the record indicates that Conrail began selling parts of the line as far back as 1996, we also hereby order Conrail to disclose to the Board all of its line or partial line sales and all of its discontinuances of service since January 1, 1996, for which no Board authority was sought and no exemption notice was filed along with an explanation of why Board authority was not sought and no exemption notice was filed.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Conrail’s explanation regarding the Lehigh Valley Main Line is due on July 1, 2010.
2. Conrail’s reports regarding line sales and discontinuances are due August 16, 2010.
3. This decision is effective on its service date.

By the Board, Chairman Elliott, Vice Chairman Mulvey, and Commissioner Nottingham.

⁷ The trial for a civil action brought pursuant to 49 U.S.C. § 11901 takes place in a U.S. District Court where venue lies. See 49 U.S.C. § 11901(f).

EXHIBIT S

Exhibit S

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Conrail's Report Regarding Line Sales and Discontinuances since January 1, 1996, STB docket number EP 695, dated September 27, 2010 (4 pages)

227874

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SEP 27 2010

September 27, 2010

VIA HEND-DELIVERY

Cynthia T. Brown
Surface Transportation board
395 E Street, S.W.
Washington, DC 20423

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Office of Proceedings

SEP 27 2010

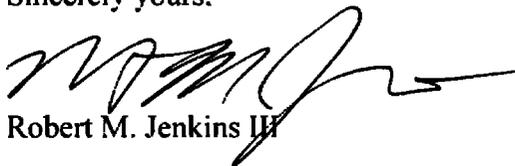
Part of
Public Record

Re: Ex Parte 695 -- Consolidated Rail Corporation's
Sales and Discontinuances

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of "Consolidated Rail Corporation's Report Regarding Line Sales and Discontinuances Since January 1, 1996." Please date stamp the extra copy of the filing and return it to our representative. Thank you.

Sincerely yours.



Robert M. Jenkins III

RMJ/bs

Enclosures

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

EX PARTE NO. 695

**CONSOLIDATED RAIL CORPORATION'S
SALES AND DISCONTINUANCES**

**CONSOLIDATED RAIL CORPORATION'S
REPORT REGARDING LINE SALES AND DISCONTINUANCES
SINCE JANUARY 1, 1996**



By decision served May 17, 2010, the Board ordered Consolidated Rail Corporation (“Conrail”) to produce a report on August 16 disclosing any line or partial lines sales and discontinuances of service since January 1, 1996, for which no Board authority was sought, as well as an explanation of why Board authority was not sought. In a decision served August 13, 2010, the Board granted Conrail’s request to extend the due date for its report to September 27, 2010.

Conrail worked diligently to comply with the Board’s order under difficult circumstances. Conrail has made over six hundred property sales since January 1, 1996. A significant percentage of those sales took place during the three-year period in the late 1990’s when Conrail was sold and largely divided between CSX Transportation, Inc. (“CSXT”) and Norfolk Southern Railway (“NS”). Many of the records of these and other sales from that era are not computerized, or are computerized in formats that have been superseded and are not easily accessed. Many of the records were in storage at several different locations, including at CSXT and NS facilities. Once the records were retrieved, hand searches were often required to determine what kind of sale was involved. Frequently, it was necessary to cross-check the records retrieved against other records, and a variety of materials—including, for instance, deeds,

valuation maps, closing reports, and regulatory filings—were consulted to ascertain the terms of the transactions, the nature of the property at issue, and whether abandonment authority was obtained when necessary.

The property sales fell into a number of different categories. Most did not involve jurisdictional track. Many were sales of parcels adjacent to rail lines that did not involve track at all. Often the sales were of easements for crossings, pipelines, sewer, or other projects that did not interfere with rail service. Sometimes the parcels involved track that was disconnected from the rail system by a prior, authorized abandonment. Sometimes the parcels involved yard, spur, or side track. Where jurisdictional track was involved, Conrail established in its review either (a) that ICC or STB abandonment authorization was obtained before the sale, (b) that the sale was to another railroad for freight service, and accordingly no discontinuance or abandonment authorization was required, or (c) Conrail retained a freight easement that gave it continued control over freight operations on the line, so that no discontinuance or abandonment was involved. The only exception was the parcels on the “Lehigh Valley Main Line” that Conrail previously discussed in its Comments filed July 1, 2010, in this proceeding. In Docket No. AB 167 (Sub-No. 1190X), *Consolidated Rail Corp.—Abandonment Exemption—In Hudson County, NJ* (served May 17, 2010), the Board exempted that entire line from the requirements of 49 U.S.C. § 10904.¹

¹ Conrail is also not reporting here the parcels that it sold on the “Harsimus Branch,” which were the subject of the Board’s proceedings in Docket No. AB 167 (Sub-No. 1189X), *Consolidated Rail Corp.—Abandonment Exemption—In Hudson County, NJ* (served Aug. 9 and Dec. 19, 2007). On appeal, the United States Court of Appeals for the District of Columbia Circuit vacated the Board’s decisions holding that those parcels were part of a line of railroad requiring abandonment authority. *Consolidated Rail Corp. v. STB*, 571 F.3d 13 (D.C. Cir. 2009). By decision served April 20, 2010, in Docket No. AB 167 (Sub-No. 1189X), the Board held Conrail’s petition for an abandonment exemption regarding those parcels in abeyance while the

In sum, after an extensive search, with the exception of the Lehigh Valley Main, Conrail found no line or partial lines sales or discontinuances of service since January 1, 1996, for which Board authority was required and was not sought and obtained.

Respectfully submitted,

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Dated: September 27, 2010

United States District Court for the District of Columbia, acting as the Special Court, addresses the underlying question of the nature of the trackage involved.

EXHIBIT T

Exhibit T

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Attachment B to Dixon Declaration viewed as:

- Aerial 1976 Robinson
- Line 1420 - 1976-1979 per Analysis
- Line 1440 - 1976-1979 per Analysis
- Line Former Penn RR Mail Line
- Line River Line – Weehawken Branch

EXHIBIT U

Exhibit U

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Aerial Photo, base image Robinson 1979, as copied from Dixon, Attachment D, and annotated to show River Line (green), switch in River Line connecting Harsimus Branch to waterfront (white), and old Pennsylvania R.R. main line (yellow). The highlighting also shows the River Line (green) running with the Harsimus Branch (red) on a single track between C.P. Waldo and the Switch (both circled in white).

EXHIBIT V

Exhibit V

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

Declaration of Dean Marchetto, consisting of:

- Cover sheet filing document as Document ECF #81-26 in U.S. Dist. Ct. (D.C.); Docket CV-09-1900 (CKK)
- Declaration pages 1 through 8 paragraphs 1 through 16

Exhibit # 24

In support of Intervenor-Defendants' opposition to Plaintiffs' Motion for Summary Judgment

Nature of Exhibit: Declaration of Dean Marchetto

In the matter:

City of Jersey City et al. v. Consolidated Rail Corporation, et al.

C.A. No. 09-1900 (CKK)

Daniel E. Horgan, Esq.
Bar No. 239772
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Secaucus, NJ 07096
(201) 863-4400

Counsel for Intervenor-Defendants - 212 Marin
Boulevard, LLC; 247 Manila Avenue, LLC; 280 Erie
Street, LLC; 317 Jersey Avenue, LLC; 354 Coles Street,
LLC; 389 Monmouth Street, LLC; 415 Brunswick
Street, LLC; and 446 Newark Avenue, LLC

Dated: September 6, 2012

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CITY OF JERSEY CITY, et al.,

Plaintiffs,

v.

CONSOLIDATED RAIL CORPORATION,

Defendant, and

212 MARIN BOULEVARD, LLC, et.al.,

Defendant-Intervenors.

Civil Action No. 09-1900 (CKK)

DECLARATION OF DEAN MARCHETTO

1. I make this Declaration upon my personal knowledge of the facts related herein upon which my statements and conclusions are based.

2. I am a licensed architect and planner in the State of New Jersey. I am also licensed as an architect in New York, Connecticut and Pennsylvania, and have been actively engaged as a professional in the development and design of major residential and commercial structures in Jersey City and along the Hudson River waterfront in Hudson County, New Jersey, as well as elsewhere, for over 30 years. I am a principal of the firm of Marchetto, Higgins, Stieve, which provides a range of architecture, planning and urban design services more fully described on the firm's website at: www.MHSarchitects.com . My experience includes

representing major developer organizations from the beginning of the development process and includes site selection, site suitability, zoning and land use analysis, the process of securing governmental permits and approvals, providing expert testimony on such issues, and similar advisory and consultative tasks.

3. My firm is located in Hoboken, New Jersey, a waterfront municipality adjoining Jersey City. Present and former clients of my firm have developed properties on the Jersey City waterfront, particularly along its prime waterfront redevelopment area. Among those clients are the Defendant-Intervenors in this Civil Action. I have firsthand experience with the development of the Jersey City waterfront including its zoning adopted in the form of a number of redevelopment plans administered by the Jersey City Redevelopment Agency and the City's Planning Board. I am also familiar with the existing uses which have been developed on the City's waterfront commonly referred to locally as the "Gold Coast" due to its tremendous success, its location directly across the Hudson River from the New York City financial district (Wall Street) and the presence of many Wall Street financial and trading companies, investment banks, and similar institutional corporate citizens.

4. The development area on the Jersey City Waterfront ("Waterfront" for purposes of this Declaration) consists of the lands sometimes referred to as part of "Downtown" Jersey City which are bordered on the East by the Hudson River, on the North by a major passenger rail terminal that physically separates Hoboken from Jersey City, on the West by Marin Boulevard (formerly Henderson Street), and on the South by water basins and canals adjoining Liberty State Park. Some additional former industrial areas at the northern and southern ends extend further to the West, and the Defendant-Intervenors' properties (the "Embankment") lie to the West of Marin Boulevard, roughly in the middle. This Waterfront area just described consists of

approximately slightly more than one square mile in area, virtually all of which has been planned for urban redevelopment through the City's adoption of redevelopment plans which have become the zoning for the area. A number of those plans date back to the 1980's. Almost uniformly they seek to displace all industrial uses and replace them with mixed use development at a fairly dense urban level. Mixed uses consist of business offices, hotels, supporting commercial uses such as restaurants, retail stores, and residential uses, mostly in high-rise luxury rental or condominium buildings.

5. As an example of this Gold Coast development, approximately ten years ago, Goldman Sachs completed a major office building on one of the blocks it purchased within the site of the former Colgate Palmolive factory. Designed by architect Cesar Pelli, it has become one of the landmark structures at the southern end of the Waterfront. A fully enclosed shopping mall, Newport Center, is located near the eastern end of the Embankment. It has been in place for over 20 years and serves a large community of thousands of prosperous residents living in the Waterfront area as well as others who arrive on light rail. The Waterfront is well served by two passenger rail mass transit systems. The Hudson Bergen Light Rail Transit System ("HBLRTS" or "Light Rail" for short) runs in a north-south direction with numerous stops. It is operated by the Intervenor, State of New Jersey's public transit agency, New Jersey Transit Corporation, over former railroad rights of way and on public streets where Conrail once ran its trains. Another mass transit system exists below the surface, the Port Authority (of New York and New Jersey) Trans Hudson ("PATH") system serves the Newport Center area as well as two stops along Columbus Drive (formerly Railroad Avenue) which connect to the World Financial Center in downtown Manhattan across the Hudson River to the east, and Journal Square in Jersey City and

the City of Newark, NJ to the west. The area is also served by ferry service to mid-town and downtown Manhattan.

6. Overall the Waterfront has seen the development of not only Goldman Sachs and the Newport Center mall within its redevelopment areas, but also a general hospital, numerous hotels including a Hyatt and a Westin, millions of square feet of first class office space, much of it occupied by Wall Street firms and other financial institutions, numerous restaurants and businesses, thousands of residents in luxury rental apartments, and condominium owners in high rise structures, the 52 story Trump Plaza Jersey City as but one fairly typical example.

7. In addition to literally billions of dollars of private investment in the Waterfront, and aside from the extensive public investment in the Light Rail and PATH systems to serve these uses, numerous government subsidies have been given over the past 30 years in the form of state incentives as well as Jersey City tax abatements to induce the kinds of mixed use development that has arisen.

8. The extent of present development can be readily seen from aerial photography of the area as it currently exists. Long shadows project to the North from the many high-rise office and residential buildings and scores of other uses can be seen. Also, a number of planned, but as yet undeveloped lots remain open, frequently used for adjacent surface parking. In addition some of the lesser low rise retail uses are proposed to give way to greater density development as proposed in City redevelopment plans.

9. The City's redevelopment plans do not propose nor allow any of the types of development that would or could use rail freight service. Such uses and the extension of freight lines crossing busy public streets are entirely incompatible with the existing and proposed (zoned) uses for the Waterfront. It is simply not credible to suggest that rail service will return to

these areas, nor to my knowledge has anyone ever suggested that it be done in a particular case, other than the City Planning Director, Robert Cotter, in a prior Declaration to the Special Court.

10. Simple economics of urban land uses and values preclude any industrial, rail dependent uses. Existing high density residential projects have acquired properties consisting of 80,000 square foot city blocks (200x400) for upwards of \$25 million. Goldman Sachs reportedly paid over \$100 million in the late 1990's when it purchased three such blocks in the Colgate redevelopment area, using only one of those blocks for its present building. Industrial and freight uses do not generate the kinds of revenues that could sustain locating in areas of such competing land values. No such uses have located on the Waterfront in competition with the development that has taken place, although there remain some older industrial buildings, generally in dis-repair, that at one time received rail service. None of them receive any rail service today for the simple reason that virtually all of the tracks have been removed and rail service discontinued on the Waterfront.

11. I am also very familiar with the Embankment, having prepared an award winning plan for its adaptive re-use in prior years' efforts to secure development approvals for the Defendant-Intervenors. The Embankment is an elevated structure that continues along the long axes of six blocks above street level. The connecting bridges between the structures over intersecting streets were removed approximately 20 years ago at the urging of the City. No rail freight customers could be served from the Embankment because at its eastern end at Marin Boulevard it meets one of the retail establishments (currently a Bed Bath and Beyond store) described above that is likely to be replaced by more dense urban uses. The uses beyond that are as described above and there is the obvious problem that there remains no path for the tracks to

follow, either at grade or above it. Finally, adjacent to the elevated embankment itself are mostly residential structures in established neighborhoods.

12. It had also been suggested that the Embankment would be a useful corridor for an extension of the Light Rail system. Aside from the fact that the system already serves the area well and no extension is necessary, the argument has been made that an extension to Journal Square, a major City location on the high ground above the Downtown area, is needed or at least desirable. If that were the case New Jersey Transit, and not the City, would be the agency to pursue such a project. That has not happened to date and no such project, nor any public funding for its pursuit has been announced. It would require the construction of five new bridges over intervening streets, new track, catenary (overhead power), and hundreds of feet of elevated trestle at the Western end to reach CP Waldo and cross intervening properties and streets at proper railroad grades. Such an extension remains pure speculation and no responsible developer or government would be likely to make decisions or commit investment in the possibility that such a Light Rail extension would be funded, much less built.

13. There is another reason why the Embankment is not useful for any sort of rail service, particularly Light Rail, to connect to Journal Square or anywhere else. Journal Square lies along the line of the PATH system a short distance to the west of CP Waldo. There exists an abandoned portion of Conrail's former River Line running from CP Waldo along the base of the Palisades in a north-south direction connecting to the vicinity of existing Light Rail facilities at the north end of the Waterfront near the Jersey City / Hoboken boundary. Since the Light Rail was built on Conrail right of way through the City of Hoboken and in Weehawken to the north, it could have been continued to Journal Square on that same right-of-way if New Jersey Transit had determined to do that back in the 1980's when the system was being laid out and planned

and when Conrail was abandoning the River Line. Instead, the system was built through the Waterfront area and provides connections to the PATH system at two areas: at Pavonia Avenue at Newport, and at Exchange Place at the foot of Columbus Drive. These connections provide mass transit access to Journal Square. There is no reason to believe that these connections are insufficient or that another connection through the Embankment to Journal Square will ever be a priority superior to other needs of New Jersey Transit.

14. The Embankment itself is a logical extension of the Waterfront area. The first block of the Embankment (the Marin block) has, in fact, been planned by the City for redevelopment and that plan and zoning remains in place. The location of the Embankment, and its proximity to Newport Center and other Waterfront uses, including access to Light Rail, make it very similar to other redevelopment properties in the Waterfront area. It is suitable for high rise residential development and the Marin block has recently been rezoned (through an amendment to a redevelopment plan) for exactly such use with zoning for up to 400 residential units and a 200 unit hotel. As such it commands high value similar to other Waterfront development parcels.

15. It is my firm opinion that there is no conceivable need for present or future rail freight service within the Waterfront area, and certainly none that could be served from the Embankment in any way, shape or form. Nor would it be feasible to institute such service by running new tracks within the area as no right of way, nor areas for rights of way, remain. The area is entirely committed to existing uses as described above and the continued expansion of such uses on those properties that may now be used for lesser valuable uses.

16. I am aware of the provisions of Title 28 of the United States Code, Section 1746, and I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 4th day of September, 2012

S/ Dean Marchetto

Dean Marchetto

EXHIBIT W

Exhibit W

In support of Petitioners' Petition for a Declaratory Order

Nature of Exhibit:

212 Marin Blvd., LLC et al. v. City of Jersey City et al., Supreme Court of New Jersey, docket number 073380, order (denying motion for leave to appeal), dated February 4, 2014 (1 page)

212 MARIN BOULEVARD, L.L.C.,
247 MANILA AVENUE, L.L.C., 280 ERIE
STREET, L.L.C., 317 JERSEY AVENUE,
L.L.C., 354 COLE STREET, L.L.C., 389
MONMOUTH STREET, L.L.C., 415
BRUNSWICK STREET, L.L.C., AND 446
NEWARK AVENUE, L.L.C.,

PLAINTIFFS-MOVANTS,

V.

CITY OF JERSEY CITY AND JOANNE
MONAHAN, ASSISTANT CORPORATE COUNSEL,

DEFENDANTS-RESPONDENTS,

AND

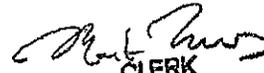
CITY OF JERSEY CITY AND CONSOLIDATED
RAIL CORPORATION, ET AL.,

THIRD-PARTY PLAINTIFFS.

AND OTHER RELATED CASES.

FILED

FEB - 4 2014


CLERK

O R D E R

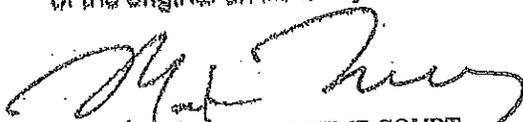
It is ORDERED that the motion for consolidate appeals

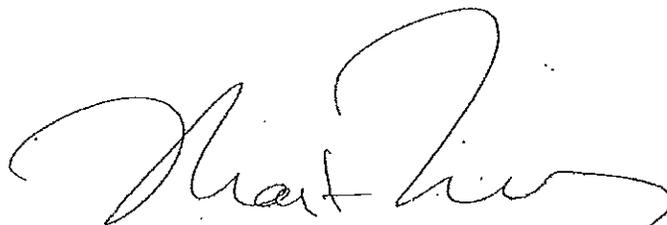
(M-502) is granted; and it is further

ORDERED that the motion for leave to appeal (M-501) is
denied.

WITNESS, the Honorable Stuart Rabner, Chief Justice, at
Trenton, this 30th day of January, 2014.

The foregoing is a true copy
of the original on file in my office.


CLERK OF THE SUPREME COURT
OF NEW JERSEY


CLERK OF THE SUPREME COURT