



EI - 16300

Harsimus Cove Association  
344 Grove Street  
PO Box 101  
Jersey City, NJ 07302

January 24, 2009

Secretary  
Surface Transportation Board  
Washington, DC 20423

Victoria Rutson, Chief  
Section of Environmental Analysis  
Surface Transportation Board  
395 E Street, SW  
Washington, DC 20423-0001

Re:

**Consolidated Rail Corporation –  
Abandonment Exemption –  
In Hudson County, NJ** AB 167 (Sub-no. 1189X)

224433

**CSX Transportation, Inc.  
Discontinuance Exemption –  
In Hudson County, NJ** AB 55 (Sub-no. 686X)

224436

**Norfolk Southern Railway Co. -  
Discontinuance Exemption -  
In Hudson County, NJ** AB 290 (Sub-no. 306X)

224437

**Reply and Request for Consulting Party Status**

On January 6, 2009, Conrail et al filed a Notice of Exemption in the cases referred to above. At the same time, Conrail et al. filed "Comments" and "Motion to Stay Effective Date of Verified Notices of Exemption and to Waive Pre-Filing Notification Requirements"

Harsimus Cove Association opposes class exemption procedures in this very controversial case. An abandonment authorization within the schedule Conrail et al. suggest cannot be done in compliance with the National Historic Preservation Act (NHPA) sections 106 and 110 (k), 16 U.S.C. 470 f and 470 h-2(k) or the National Environmental Policy Act (NEPA) section 102, 42 U.S.C 4332

We believe that abandonment authorization is barred by NHPA Section 110 (k), because Conrail and its developer partner have engaged in anticipatory demolition of rail assets

We call for a full Environmental Impact Statement (EIS) to address the many issues raised by this potential abandonment.

Our organization further requests consulting party status in an NHPA Section 106 review.

Harsimus Cove Association encompasses a neighborhood that is almost entirely made up of a National Historic District. Our community has a deep respect, understanding and appreciation of our surroundings. We consider our Embankment as an integral part of our community.

The destruction of the Embankment would tear asunder our community from our neighboring historic districts. The damage would be irreversible and in some ways worse than the devastating effect that Robert Moses' highways had on the neighborhoods they eviscerated.

The massive stone and infill Embankment plays an important environmental role in our low-lying neighborhood. Our city has a combined sewer system, so any significant rainfall causes flooding of polluted water into our streets and our homes. The Embankment now serves to sequester the water in its soil and slowly release it.

***Certificate of Service***

***By my signature below, I certify deposit on January 24, 2009 at an express service for overnight business day delivery, to Robert Jenkins, Mayer Brown LLP, 1909 K Street NW Washington DC 20006 and, by first class mail, to the additional parties on the attached service list.***

  
***Eric Fleming, President, Harsimus Cove Association***

**Service List  
January 2009**

**Charles H Montagne  
426 NW 162nd Street  
Seattle, Washington 98177**

**Mayor Jerramiah T Healy  
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**Jill Edeiman, President  
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**Gretchen Scheiman  
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**Robert Vivien  
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**Mark Mauriello, Commissioner  
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**Jennifer Greely  
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**Dolores P Newman  
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**Daniel D Saunders  
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NJ Department of Environmental Protection  
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**Maureen Crowley, Coordinator  
Embankment Preservation Coalition  
263 Fifth Street  
Jersey City, NJ 07302**