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Hon. Anne Quinlan
Secretary
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423-0001

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Public Record



April 2, 2008

Re: Consolidated Rail Corp. – Abandonment Exemption, Jersey City, NJ, AB 167 (Sub-no. 1189X) and related proceedings

Dear Ms. Quinlan:

NY/NJ Baykeeper is a regional non-profit conservation organization that for 18 years has worked to protect, preserve and restore natural resources, open space and public access for the communities of the Hudson-Raritan Estuary (a.k.a. NY/NJ Harbor). We write to you in regard to the proposed abandonment exemption of the Harsimus Stem Embankment along the Hudson River waterfront in Jersey City, NJ.

We have recently reviewed a letter stating that Consolidated Rail Corporation (Conrail) intends to file, on or about April 7, a “notice of exemption” under this Board’s fast track “class exemption” procedures (49 C.F.R. 1152.50) to obtain abandonment authorization for the Harsimus Branch and for the Hudson Street Industrial Track, in Jersey City. The following comments and objections are directed at Conrail’s proposed licensing action by this Board in respect to the Harsimus Branch.

First, we request the dismissal of the Conrail notice of exemption and also request a full Environmental Impact Statement. An exemption would make no sense on a project as notable as the “Embankment to Green Park” and in a circumstance as controversial as the attempts to sell off and develop this site in an illegal manner.



A full environmental impact statement would help to provide useful information about open space benefits, existing and potential wildlife habitat and natural resources, significant storm water runoff control benefits and other environmental characteristics. Although there is some site specific data that exists and great ancillary information from nearby urban natural areas like Liberty State Park, Lincoln Park West and the Hackensack Meadowlands, only a limited effort has been undertaken to examine the local and regional significance of preserving and enhancing a green corridor that stretches from the Hackensack Meadowlands to the Hudson River waterfront.

Limited site-specific data submissions by the natural resource agencies that were contacted by Conrail and others should not be used to conclude that this area does not have significant environmental attributes. It is important to note and weigh carefully the fact that any lack of submissions on existing site-specific data regarding wildlife values is commonly recognized by the agencies themselves as having more to do with limited resources and a bias among natural resource agencies toward reviewing larger tracts of natural lands in non-urban areas. For these very reasons, the need for a full EIS is even more evident.

The highest and best use for the Embankment is to preserve it as a park and trail, or for an ecologically sensitive rail alternative to relieve Jersey City's growing surface transportation congestion. As a park and trail facility, the Embankment not only would serve local and regional residents but also would link the East Coast Greenway to Manhattan from Philadelphia. Because of the Embankment's width, both a rail transportation system and trail use could occur simultaneously.

Hudson County is the most densely populated County in the nation, providing homes to more than 1,000 people per square mile, and is also heavily developed, so open space is truly at a premium. The State Comprehensive Outdoor Recreation Plan for New Jersey shows Hudson County to be grossly lacking in the recommended amount of open space acreage per resident, and to have the greatest open space deficit of any County in the state.

The area formerly serving as the Harsimus Stem rail line now provides one of the few remaining opportunities to provide a park setting to Hudson County residents. More conventional open space opportunities simply do not exist elsewhere in the vicinity. This has been recognized by elected leaders in Jersey City, Hudson County, and the State of New Jersey and by regional organizations like the Hackensack Riverkeeper, NJ Audubon, the East Coast Greenway Coalition and NY/NJ Baykeeper.

This site is so widely and enthusiastically embraced as an important regional natural area and critical open space that it has been designated as a "*high priority acquisition site*" by the

Environmental Protection Agency administered bi-state Harbor Estuary Program. This designation requires approval from federal and state natural resource agencies including United States Fish and Wildlife Service, the National Association of Atmospheric and Oceanic Administration, National Marine Fisheries Bureau and the New Jersey Department of Environmental Protection, as well as regional conservation organizations.

The Embankment provides one of the few, if not the only, realistic opportunity to maintain a continuous natural corridor between the Hackensack Meadowlands on the western side of the Hudson County Peninsula and the Hudson River Waterfront on the east. In this densely developed region, existing natural areas, even those that have been previously disturbed, teem with exceptional abundances of shorebirds, like Great Egrets, Great Blue Herons, and migratory song birds because of the limited opportunities to forage and shelter as these species make their way up the funnel of the Hudson-Raritan Estuary along the Atlantic Flyway. That is why nearby areas like Liberty State Park, Lincoln Park West and the marshes of the Hackensack Meadowlands are such wildlife “hot spots.” Several species of birds tend to move between these sites to maximize foraging opportunities. Quite noteworthy is that the Embankment also supports the large Monarch butterfly migration that travels this same route.

Despite the lack of site-specific information about the Embankment, there exists good, if not comprehensive, wildlife information for this area that demonstrates the need to support significant wildlife habitat in the near vicinity. For instance, the United States Fish and Wildlife Service produced an excellent study, “Significant Habitats and Complexes of the New York Bight Watershed” that documents the extensive, often unrecognized, flora and fauna for the Hudson -Raritan Estuary at large, and acknowledges the important interrelationships between existing, but fragmented habitat areas.

This study provides important information about the Hudson River ecosystem immediately at the terminus of the Embankment project that could be positively impacted by Embankment preservation and negatively impacted by additional development and its associated storm water runoff. The report states (p.632-633) that the area “between Jersey City and Edgewater, river kilometers 2.4 to 14.2 (river miles 1.5 to 8.8), was found to be an important overwintering habitat for striped bass. Salinities ranged from 0 to 26 parts per thousand, and temperature from 2.0 to 28.0°C (35.6 to 82.4°F); dissolved oxygen was stratified throughout the area, with lower values in the bottom waters. Dissolved oxygen levels generally above 4.0 mg/l were observed; however, certain lagoon, interpier, and combined sewer overflow areas caused locally depressed dissolved oxygen. This stretch of the river has significant concentrations of wintering waterfowl, especially canvasback (*Aythya valisneria*), with lesser numbers of scaup (*Aythya* spp.), mergansers (*Mergus* spp.), mallard (*Anas platyrhynchos*), and Canada goose (*Branta canadensis*). Bald eagles have recently been observed overwintering along the lower Hudson reach, with a roost site in

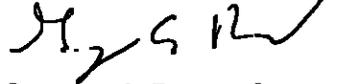
the Palisades." And additional fish, bird and wildlife species are identified when the longer stretch of the River from Manhattan to Piermont Marsh is characterized at large.

Also, it is worth noting that there is strong consensus among leading natural resource organizations and agencies that there is a very significant potential to create and restore natural habitat as part of the Embankment preservation- park creation process.

Having just learned of this proposed action and given the very limited deadline for response, it is difficult to fully present relevant environmental data that would no doubt be of interest to the Surface Transportation Board. However, we appreciate the opportunity to submit fundamental information and informed professional opinion regarding the environmental values and opportunities associated with the area of the abandoned rail line.

By the signature below, we certify service by U.S. Mail, postage prepaid, first class on Mr. John K. Enright, Associate General Counsel, Conrail, 1000 Howard Boulevard, 4th Floor, Mt. Laurel, NJ. 08054.

Respectfully submitted by,



Gregory A. Remaud
Conservation Director
NY/NJ Baykeeper