

242069

JAMES RIFFIN

PETITIONER

ENTERED
Office of Proceedings
November 16, 2016
Part of
Public Record

PETITION FOR DECLARATORY ORDER

FD 36078

(Hudson Street Industrial Track / Harsimus Branch

(Jersey City, Hudson County, NJ)

Submitted by: James Riffin, Petitioner, *pro se*
P. O. Box 4044
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FEE RECEIVED
November 16, 2016
SURFACE
TRANSPORTATION BOARD

FILED
November 16, 2016
SURFACE
TRANSPORTATION BOARD

PETITION FOR A DECLARATORY ORDER

1. Comes now your Petitioner, James Riffin (“**Riffin**”), who respectfully petitions the Surface Transportation Board (“**STB**”) pursuant to 5 U.S.C. 554, to institute a Declaratory Order proceeding to resolve a controversy, to reduce / eliminate uncertainty, to reduce / eliminate future litigation, and to prevent creating a ‘stranded segment.’

2. Riffin asks that the STB resolve this matter pursuant to the modified procedure rules at 49 CFR part 1112.

BRIEF BACKGROUND INFORMATION¹

3. In the late 1830's, the New Jersey Railroad Company constructed a railroad from Exchange Place westward. The original mainline generally followed where present day Columbus Blvd. exists. In 1867, the New Jersey Railroad Company merged with the Camden & Amboy, to form the United New Jersey Railroad and Canal Company (“**UNJRCC**”).² In 1868, the Harsimus Bill granted the UNJRCC authority to “purchase, fill and cover with a freight yard and piers much of Harsimus cove.” *Nomination* at 6. In 1871, the Pennsylvania Railroad (“**PRR**”) leased the UNJRCC for 999 years. *Nom.* at 8. By 1883, an Elevated Harsimus Freightway had been built, connecting the Harsimus Cove Yard via a 2-track elevated freightway to the UNJRCC’s main line at Waldo. (Parallel to the south side of present day 6th street.).

¹ More background information may be found in the STB’s August 9, 2009 Served decision in FD 34818. (Jersey City’s Pet. For Declaratory Order, wherein the STB held that the Embankment portion of the Harsimus was an unabandoned ‘line of railroad.’) Even more background information may be found in Jersey City’s FD 34818 Petition for Declaratory Order, filed January 12, 2006; Jersey City’s Opening Statement in FD 34818, filed March 10, 2006; Conrail’s April 24, 2006 filed Reply in FD 34818; Jersey City’s Rebuttal in FD 34818, filed May 9, 2006; and the “LLCs” Petition for Declaratory Order of Exemption, FD 35825, filed May 8, 2014.

² From: *The Pennsylvania Railroad Harsimus Branch Embankment, State & National Resisters of Historic Places Nomination*, © 1999 Rick James, at pp. 5-6 of 21 pages. Ex. E in Jersey City’s Pet for D.O., FD 34818. (Verified Statement of Richard James.) (“*Nomination*”).

A “brief reference in an 1891 Engineering News article describing the new P.R.R. passenger shed and Railroad Ave. track elevation mentions the earlier Harsimus work. The bulk of the P.R.R.’s freight, we are told, ‘is deflected from the main line ... to the Harsimus Cove branch, a double track line crossing Jersey City on an iron viaduct and terminating at the docks and yards on the water front. This viaduct for the freight traffic was built before the one used for passenger traffic was undertaken.’ ” *Nom.* at 10.

4. In 1901, the PRR started to build what today is known as the ‘Embankment.’ Stone walls were erected around the perimeter of six blocks of the PRR’s 6th Street right-of-way. Fill was added. Seven tracks were built on top of the Embankment, thereby replacing the original 2-track elevated iron freightway. The ‘Embankment’ was completed in 1914. *Nom.* at 12-16.

5. In 1961, the UNJRCC received abandonment authority to discontinue its rail commuter service, from Exchange Place to Brunswick Street. (300 feet or so East of the NJ Turnpike extension.) 312 ICC 529 (1961). Shortly thereafter, the elevated passenger line was demolished. Present day Columbus Blvd. was built on the former UNJRCC right-of-way.

6. In 1976, pursuant to the Final System Plan (“**FSP**”), Consolidated Rail Corporation (“**Conrail**”) acquired Line Code 1420 (the Harsimus Branch), and Line Code 1440 [the Hudson Street Industrial Track (“**HSIT**”)], and all rail assets appurtenant thereto. See FSP Vol. 1, July 26, 1975, p. 272. Conrail also acquired **a portion** of the Harsimus Cove Yard. FSP Vol 1, p. 262.³

7. Between 1976 and about 1988, Conrail delivered thousands of rail cars to multiple shippers (**at least seven**), located adjacent to the **HSIT** and adjacent to the **Harsimus Branch**. See **Appx I**, Jersey City’s Opening Statement in FD 34818, and the August 9, 2007 Served

³ 24 acres of the Harsimus Cove Yard (the portion bounded by 2nd Street on the South, by the Hudson River on the East, by the **south side** of 6th Street on the North, and generally by where the present day Light Rail Line is located, on the West), was conveyed to the William J. Morris Realty Co. by the United New Jersey Railroad and Canal Company’s (“**UNJRCC**”) bankruptcy trustee, **prior to** implementation of the FSP. See Liber 3165, folio 1, recorded in the Hudson County’s Register’s Office, which conveyance was approved by the Special Court on **March 25, 1976**. See Liber 3286, folio 730, recorded in the Hudson County’s Register’s Office.

decision in FD 34818, at p. 4.⁴ Appx 8-12. It is unknown if Conrail shipped any rail cars, or the contents of any rail cars, via car floats / barges, between 1976 and 1983.⁵ “Conrail’s last customer served by the line of railroad constituting Line Code 1420 was gone by 1992.” August 9, 2007 Served decision in FD 34818 at slip op. 4.

8. On **August 9, 1985**, Conrail sold that portion of the Harsimus Cove Yard that it had acquired via the FSP, to **National Bulk Carriers**. See Liber 3468, folio 64, in the Hudson County Register’s Office. Conrail **reserved two rail easements**. See Liber 3468, folio 65, 66.

9. In **July, 2005**, **after** Jersey City declined to submit a bid to purchase the Embankment portion, Conrail sold the Embankment portion of the Harsimus to the LLCs.⁶

10. In **2006**, Jersey City filed its Petition for Declaratory Order, FD 34818, wherein the City asked the STB to determine that the Embankment portion (**and just the Embankment portion**), of the Harsimus, **was conveyed** to Conrail via the FSP as a ‘line of railroad,’ to wit: Line Code 1420.

11. In a decision Served on **August 9, 2007**, in FD 34818, the STB found that the Embankment portion of the Harsimus, **from CP Waldo, at (now) MP 0.0 to the West Side of Marin Blvd, at (now) MP 0.88**, was conveyed to Conrail as a line of railroad, to wit: Line Code 1420. This decision was vacated by the D.C. Circuit. (Holding that determining what was **conveyed** to Conrail was within the exclusive jurisdiction of the Special Court.)

⁴ 12 months ended 9/84, carloads: **HSIT**: Colgate: 1,068; W.J. Morris: 186; Refined Onyx: 107; B-Line Trucking: 41; Manischewitz: 35. **Harsimus**: Chicago Shippers: 1,403; Elk Warehouse: 364. Appx 8.

⁵ In the FD 34818 proceeding, Conrail certified that its traffic records prior to 1983, were on old unreadable computer tapes. Jersey City’s FD 34818 Opening Statement at 4. So Conrail traffic records are only available from 1983 to 1988.

⁶ 212 Marin Blvd LLC; 247 Manila Ave LLC; 280 Erie St LLC; 317 Jersey Ave LLC; 354 Coles St LLC; 389 Monmouth St LLC; 415 Brunswick St LLC; 446 Newark Ave LLC.

12. Jersey City and the LLCs stipulated in the Special Court that the Embankment was **conveyed** to Conrail as a line of railroad, to wit: Line Code 1420. Conrail took no position.

13. In **2009**, Conrail filed a Notice of Exemption (“**NOE**”) to abandon the Harsimus. Conrail indicated that the Harsimus Branch originally was 1.48 miles long. (From CP Waldo to the Hudson River docks.) Conrail indicated that the portion of the Harsimus that was conveyed to Conrail, was only about 1.36 miles long. (The remaining 0.12 mile / 633 feet having been sold to National Bulk **prior** to Conrail taking title via the FSP.)

14. Conrail listed the HIST in its pre-NOE filing, indicating that Conrail would be seeking abandonment authority for both the Harsimus Branch and the HSIT. Conrail then elected **not to seek abandonment of the HSIT**.

15. On **January 31, 1994**, National Bulk conveyed 18 acres of what it had acquired from Conrail, to **G&S Investors**. See Liber 4690, folio 303 in the Hudson County’s Register’s Office.

16. On **May 20, 1994**, at the request of G&S Investors, Conrail **terminated the rail easements that it had reserved** when it conveyed its portion of the Harsimus Cove Yard to National Bulk. See Liber 4730, folio 323 in the Hudson County’s Register’s Office.

17. On **May 30, 1995**, National Bulk conveyed an additional 5 acres of what it had acquired from Conrail, to **G&S Investors**. See Liber 4867, folio 298 in the Hudson County’s Register’s Office.

18. G&S Investors developed what today is known as **Metro Plaza**, on the land that it acquired from National Bulk. In **2015**, the Metro Plaza parcel had as tenants: Pep Boys; BJ’s Warehouse; Shoprite; and a Bed Bath and Beyond, around the perimeter, and a large parking lot in the center. (Metro Plaza is bounded by 2nd Street on the south, by the Light Rail Line on the east, by 6th Street on the north, and by Marin Blvd (formerly Henderson St) on the west.)

19. Three entities (Jersey City, CNJ Rail, and James Riffin), filed Notices of Intent to file an Offer of Financial Assistance (“**OFA**”) , to acquire portions of the former Harsimus Branch. (Jersey City: From CP Waldo to the **West** side of Marin Blvd, MP 0.88 (Appx 1); CNJ Rail: from CP Waldo to the end of the line, at MP 1.36; Riffin: from CP Waldo to the **West** side of the Light Rail Line’s right-of-way, which forms the **Eastern boundary** of the Metro Plaza parcel.)

20. In **2015**, G&S Investors received authority from Jersey City to **redevelop** the Metro Plaza Parcel. In **August, 2015**, the Pep Boys **was demolished**. A 35-story hi-rise is being constructed on the former Pep Boys site. Another 35-story hi-rise is scheduled to be built on the parcel immediately south of where Pep Boys was, **on the railroad right-of-way that Conrail reserved** in its National Bulk deed. (Which right-of-way Conrail terminated in 1994.)

21. G&S Investors has plans to completely demolish the existing buildings on the Metro Plaza parcel, then replace those buildings with new, very high density buildings, essentially eliminating the large parking lot that was in the center of the Metro Plaza parcel on **June 8, 2015**, the date that Riffin filed his Notice of Intent to File an OFA. (Jersey City and CNJ Rail filed their Notice of Intent to file an OFA on **March 19, 2009**.)

22. In *The Kansas City Southern Railway Company – Abandonment Exemption – Line in Warren County, MS*, AB 103 (Sub. No. 21X), Served February 22, 2008, the STB held that the removal or alteration of any assets associated with a railroad line of railroad during the OFA process, is prohibited, since such removal or alteration

“tends to undermine that process because it reduces the rail assets in place when the offeror invoked section 10904, and thus **can obstruct or impede the efforts of the offeror to provide rail service**. See *Railroad Ventures, Inc. – Aban. Exem. – Youngstown, OH & Darlington, PA*, 4 S.T.B. 583 (2000).” Bold added.

23. The OFA process began when Conrail filed its abandonment NOE on **January 6, 2009**. Consequently, **the status of the Harsimus Branch, as it existed on January 6, 2009, must be**

maintained, until the OFA process has concluded. (Or, it might be argued, as to Riffin, that it began on June 8, 2015, the date that Riffin filed his Notice.)

24. On **July 20, 2016**, Riffin filed a Complaint in the U.S. District Court, District of NJ, Newark Division, which was docketed **16-cv-04433-ES - JAD**. In his Complaint, Riffin asks the Court to determine the proper classification for the track segments that traversed the Metro Plaza parcel. **IF** the Court determines that ‘lines of railroad’ traversed the Metro Plaza Parcel, (that Conrail **USED** track segments for ‘thru’ traffic) then Riffin will ask the Court to order the owners / developers of the Metro Plaza parcel to maintain the *status quo* of the Metro Plaza parcel, until the OFA process in AB 167 (Sub. No. 1189X) (“**1189X**”) has concluded.

THE CONTROVERSY

25. Conrail has taken the position that it “**operated**” the Harsimus Branch and the HSIT as “**§10906 excepted track,**” from the date that Conrail acquired them. Conrail has argued that Line Code 1420 was not **conveyed** to Conrail as a ‘line of railroad.’ Conrail reasoned that as §10906 excepted track, Conrail **did not need STB authority** to ‘abandon,’ to ‘discontinue’ service over, or to sell the real property comprising, either the Harsimus Branch, or the HSIT.

26. Conrail has emphasized that **no one complained** when it sold the portion of the Harsimus Cove Yard that it acquired / when it discontinued service on the HSIT.

27. Jersey City has argued vigorously (and prevailed on its argument), that the Embankment portion of the Harsimus was **conveyed** to Conrail as Line Code 1420, and that Line Code 1420 was a ‘line of railroad,’ both before it was conveyed to Conrail, and after it was conveyed to Conrail.

28. The STB held, in its August 9 2007 decision in FD 34818, that the Harsimus Branch had been **used** as a line of railroad since its inception. The STB further held that the Embankment portion of the Harsimus was **conveyed** to Conrail as a line of railroad. While the Circuit Court

vacated the STB's decision on jurisdictional grounds, the Special Court ultimately agreed with the STB's findings.

29. Jersey City has advocated both in its FD 34818 proceeding, and in the 1189X proceedings, that there is a 'line of railroad' traversing the Metro Plaza parcel:

"Conrail should have obtained authority from ICC or STB to abandon that portion of the Harsimus Cove facility which was **through track** (i.e., MP 1.3 to MP 1.0 on the Pennsylvania Railroad track chart and Conrail charts through 1980) as a 'line of railroad.' "⁷ Jersey City's Opening Statement at 36. The 'track chart' is reproduced herein at Riffin's Appx 6, 7.

"City has no objection if Conrail in response to this Board's ruling in this case decides to seek an abandonment authorization, encompassing the through line from MP 1.3 to MP 1.0 in the Cove. In general, Conrail should bring itself into compliance with applicable law." Jersey City Opening Statement at 36-37.

"Based on inquiry to STB, yard track in general is subject to STB jurisdiction, but is exempt from STB abandonment approval, **except for the last through track in a yard**, per 49 USC 10906. Conrail could thus lawfully sell off the yard, **except the last through track**. But as a practical matter, City has viewed that issue as **irrelevant**: the only former trackage in the yard east of Marin in which the city **has an interest for purposes of an OFA**, and which still exists as a rail transportation-compatible right of way, **is embodied in Sixth Street**, but that is **already owned by the city**. From the **City's point of view, that renders moot** the location of the **last through line** in the old Harsimus Cove Yard, and City et al have never sought either a location or status determination concerning same." City et al.'s November 4, 2016 Reply, at p. 37 - 38, to Riffin's October 31, 2016 Petition for Other Relief in 1189X.

⁷ Jersey City also said in its Opening Statement at 36: "But City's focus in its Petition is on MP 1.3 (Luis Munoz Marin Blvd) to MP 2.54 (Waldo). In terms of preservation of a right of way from MP 1.3 to MP 0 (Hudson River or Harsimus Cove), Jersey City has already made arrangements through land use planning with developers of that property to preserve sufficient land either (a) for light rail to a junction with the existing light rail system between Luis Munoz Marin Boulevard and the waterfront, or (b) for trail connections to the Hudson River waterfront and ferry connections to Manhattan as envisioned for the East Coast Greenway." Note: While an easement was reserved by Jersey City across the Metro Plaza parcel, essentially where Conrail reserved its rail easement in the deed from Conrail to National Bulk, Jersey City **relinquished that easement** when Jersey City approved the re-development of the Metro Plaza parcel. Under current re-development plans, **there are no easements** across the Metro Plaza parcel, nor could a 'rail corridor' be threaded through the hi-density development currently approved. See Riffin's Appx hereto at 19.

30. Riffin has advocated in his District Court Complaint, that one or more of the track segments that traversed the Metro Plaza parcel **was USED by Conrail for THRU** traffic, and thus **became a line of railroad** due to Conrail's **USE** of the track segment(s).

31. And in Riffin's District Court Complaint, Riffin advocates (and provides evidence) that one of the seven track segments that traversed the Harsimus Cove Yard, that was **used for thru service**, was located **precisely where Sixth Street presently exists today!** Which raises the additional issue: Did Jersey City unlawfully acquire the real property underlying Sixth Street? [Non-carriers are prohibited from acquiring lines of railroad. 49 U.S.C. 10901(a)(4). And carriers are prohibited from abandoning / selling, their lines of railroad without authority. 49 U.S.C. 10903.] [Which is precisely the same argument that City et al. has been making in the 1189X proceeding with regard to the LLCs' acquisition of the Embankment portion of the Harsimus Branch. So while the City advocates that the location of the last through line in the Harsimus Cove Yard is 'moot,' that issue is no more 'moot' than it was for the Embankment portion. [Just because Jersey City **has no interest** in the lines traversing the Harsimus Cove Yard, does not render the issue 'moot.' That is the same argument Conrail has repeatedly used. ('No one complained.') If there are lines of railroad traversing the former Harsimus Cove Yard, the location of those lines of railroad needs to be determined (or at a minimum, they need to be properly abandoned]. [Riffin argues that it is precisely this irreverent, lackadaisical attitude about the STB's jurisdiction over lines of railroad, that has created the 1189X mess.]

32. The Defendants in the Newark Proceedings, have advocated that there are **NO** 'lines of railroad' traversing the Metro Plaza parcel. See Defendants' statement in the parties' Joint Discovery Plan. Appx 23.

33. Riffin has advocated in the 1189X proceeding, that abandonment authority in the 1189X proceeding **may not be granted, until abandonment authority for the HSIT is granted (and exercised)**. Otherwise, the HSIT would become an unlawful '**stranded segment**.'

THE ISSUES

34. Is the HSIT a ‘line of railroad?’ If so, must abandonment authority be sought, and exercised before / at the same time as, abandonment authority for the Harsimus is acquired / exercised?

35. Did Conrail **USE** one or more track segments that traversed the Metro Plaza parcel, for ‘through’ traffic? If so, are there one or more unabandoned lines of railroad that traverse the Metro Plaza parcel?

36. Must Line Code 1440 / the HSIT **connect** to Line Code 1420 / the Harsimus Branch? (How was Line Code 1440 / the HSIT **connected** to the National Rail System?) If so, was that connection East or West of where the Harsimus Branch crossed the West side of the Light Rail right-of-way?

37. **IF** Line Code 1420 / the Harsimus Branch (the Line which is the subject of the 1189X proceeding) traversed the Metro Plaza parcel, and **IF** it continued East of the West side of the Light Rail right-of-way, to some point East of the West side of the Light Rail right-of-way, **MUST** the *status quo* of that Line, and the assets associated with that Line, be maintained until the OFA process in 1189X concludes?

ARGUMENT

38. The issue at this point in time is: Should the STB institute a declaratory order proceeding to address the issues raised by Riffin?

39. To institute a declaratory order proceeding:

A. There must be a ‘controversy’ that is capable of being resolved by the STB; **and / or**

B. There must be ‘uncertainty’ that is capable of being resolved by the STB.

CONTROVERSIES

40. As noted above, the following ‘**controversies**’ exist:

A. Conrail has advocated that the HSIT / Line Code 1440 is §10906 ‘excepted’ track.

B. Riffin advocates that the HSIT / Line Code 1440 is a ‘line of railroad.’

C. Conrail advocated in its March 12, 2008 filed Notice of Exemption that the HSIT / Line Code 1440 **begins** at the intersection of Hudson Street and Columbus Blvd. See Map appended to Conrail’s Notice of Exemption, filed March 12, 2008. (The two maps immediately after p. 11 in Conrail’s Environmental and Historic Report.) **HOWEVER**, Conrail’s 1-1-77 Track Chart, **Appx 3**, indicates that the HSIT (Track No. 210) **connect to, and begins** at the turnout connecting the HSIT with the Harsimus Branch track (Track No. 215), which turnout is near, and **west of**, the turnout from the Harsimus Branch (Track No. 215) to the W.J. Morris sidings (Track Nos. 731, 732, 733, which HSIT turnout is depicted as being **inside** the Harsimus Cove Yard. This is more clearly depicted on Hyman Property Attachment C, prepared by Omland Engineering, dated September 4, 2012, which graphic the LLCs filed in their **FD 35825** Petition for Declaratory Order of Exemption proceeding on **May 8, 2014**. [And which graphic the LLCs earlier filed in the Special Court proceeding. See 09-cv-01900-ABJ, DDC, Doc. 82-1, filed September 6, 2012. **Note:** The graphic filed by the LLCs in FD 35825, may be enlarged, substantially, thereby making it easier to see detail.]

D. Conrail advocates that the Harsimus Branch / Line Code 1420 is §10906 excepted

track, and that **all** of the track segments within the **limits** of the Harsimus Cove Yard,⁸ are §10906 excepted track.

- E. The Special Court determined that Line Code 1420 traversed the Embankment portion of the Harsimus, and that this portion of Line Code 1420 was **conveyed** to Conrail as a line of railroad. The STB, in FD 34818, determined that numerous track segments within the limits of the Harsimus Cove Yard were lines of railroad **before** the Yard was conveyed to Conrail via the FSP. Riffin advocates, and provides evidence, that Conrail **used** multiple track segments within the limits of the Yard, for **through** traffic, thus making those track segments lines of railroad. Riffin further advocates that Line Code 1440 / the HSIT **must connect** to Line Code 1420 / the Harsimus Branch, **at some point**. [Otherwise, Conrail could ‘strand’ the HSIT simply by abandoning (without any express authority) any intervening §10906 track segments.)]
- F. The above gives rise to the issue noted in ¶36 above: Did the HSIT **connect** to the Harsimus? If so, **where**?

‘UNCERTAINTY’

40. Conrail, Riffin (and likely other entities, such as the owners / developers of the Metro Plaza parcel), **are uncertain** if Conrail is **required** to seek and obtain abandonment authority for (A) The HSIT; and / or (B) Whatever track segments that traversed the portion of the Harsimus Cove Yard that was conveyed to Conrail, that are ‘lines of railroad.’

41. Riffin, the owners / developers of the Metro Plaza parcel, and other entities providing financing / other services, in furtherance of the re-development of the Metro Plaza parcel, **are**

⁸ The limits of that portion of the Harsimus Cove Yard that was conveyed to Conrail, are 2nd Street, on the south; the **eastern boundary** of the portion of the Yard that was conveyed to W.J. Morris Realty Co., on the east; approximately where the extension of 7th Street would be, on the north; and by Marin Blvd (formerly Henderson Street) on the west.

uncertain if the *status quo* of the Metro Plaza plaza, as it existed on **June 8, 2015** (the date that Riffin filed his OFA Notice) / as it existed on **March 19, 2009**, (the date that Jersey City / CNJ Rail filed their OFA notices), **must be maintained**. The *status quo* must be maintained **only if** unabandoned ‘lines of railroad’ still traverse the Metro Plaza parcel.

**THE STB HAS THE AUTHORITY TO RESOLVE
THE ‘CONTROVERSIES’ / ‘UNCERTAINTIES’**

42. While the STB **does not have** the jurisdictional authority to determine whether the track segments at issue were **conveyed** to Conrail as ‘lines of railroad,’ the STB decidedly has the authority to determine whether Conrail **USED** any of the track segments at issue for ‘through’ traffic, and if so used, to determine that those track segments are ‘lines of railroad.’

43. Riffin argues that the STB also has the authority to determine **WHETHER** the Harsimus Branch / Line Code 1420 and the HSIT / Line Code 1440 **connected** to each other, and if so, to determine **WHERE** that connection was located.

**REASONS WHY THE STB SHOULD EXERCISE ITS AUTHORITY
TO INSTITUTE A DECLARATORY ORDER PROCEEDING**

44. Conrail has demonstrated that it will not seek abandonment authority until it is crystal-clear that it must seek abandonment authority. Other entities have demonstrated that they will flaunt the STB’s jurisdiction, until it is crystal-clear that their activities are subject to the STB’s jurisdiction.

45. This lack of respect for the STB’s jurisdiction over rail matters, has precipitated years of litigation, and has caused the STB to use a tremendous amount of its very limited resources, to try to resolve the ensuing legal mess.

46. Riffin advocates that the STB should institute a declaratory order proceeding, in order to determine, once and for all, the extent of the STB's jurisdiction over **ALL** of the track segments at issue. (Those associated with Line Code 1420 / the Harsimus Branch. Those associated with Line Code 1440 / the HSIT. And those associated with that portion of the Harsimus Cove Yard that was conveyed to Conrail.)

47. Once the parameters of the STB's jurisdiction is established, **ALL** interested parties will know **precisely** what their rights and obligations are, and will know **precisely** what they can, and cannot, do.

48. Instituting a declaratory order proceeding **before** the STB concludes its extended Historic and Environmental review, will permit Conrail to ascertain whether it needs abandonment authority for the HSIT, and if so, will permit Conrail to start the process of seeking abandonment authority for the HSIT, if it must, **before** still another issue arises: Would abandonment of the Harsimus Branch result in the HSIT becoming an unlawful 'stranded segment.'

49. Instituting a declaratory order proceeding will start the process of resolving the 'cloud' that presently exists over the Metro Plaza parcel. It would be far better to resolve this issue **now**, **before** any further re-development occurs, for once re-development occurs, it becomes far more difficult to resolve the ensuing legal issues, if it is ultimately determined that unabandoned lines of railroad still traverse the Metro Plaza parcel.

50. Riffin envisions the declaratory order proceeding concluding rather expeditiously, for necessary 'discovery' has already occurred. (In the FD 34818 proceeding.) Who knows, the parties may ultimately 'stipulate' as to the definition of a 'line of railroad,' 'stipulate' as to the nature of the traffic that passed over the track segments at issue ('thru' or 'local'), and may even 'stipulate' that one or more track segments that traversed the Metro Plaza parcel, were lines of railroad,' just as Jersey City and the LLCs 'stipulated' in the Special Court. And who knows, once the parties realize that the STB **will render a decision**, the parties may even at least make

an attempt to resolve this mess on their own with some sort of settlement agreement. (One can always hope.)

51. WHEREFORE, for the foregoing reasons, Riffin respectfully prays that the STB institute a declaratory order proceeding to resolve the controversies and uncertainties identified above, and for such other and further relief as would be appropriate.

Respectfully,

James Riffin
P. O. Box 4044
Timonium, MD 21094
(443) 414-6210

CERTIFICATE OF SERVICE

I hereby certify that on or before the 17th Day of November, 2016, a copy of the foregoing Petition for Declaratory Order, was served on the entities noted below, by e-mail.

James Riffin

Served by e-mail: Charles Montange, counsel for City et al.; Daniel Horgan, counsel for the LLCs; Robert Jenkins, Adam Sloane, and Jonathan Broder, counsel for Conrail; Brendan Judge, counsel for the owners / developers of the Metro Plaza parcel; Eric Strohmeyer, COO of CNJ Rail.

Note: There is no obligation to serve a Petition for a declaratory order on anyone. However, in the interest of giving reasonable notice to the parties most directly affected by Riffin's Petition for Declaratory Order, Riffin is giving notice to the above noted parties.

CONRAIL®

RECEIVED

92 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:

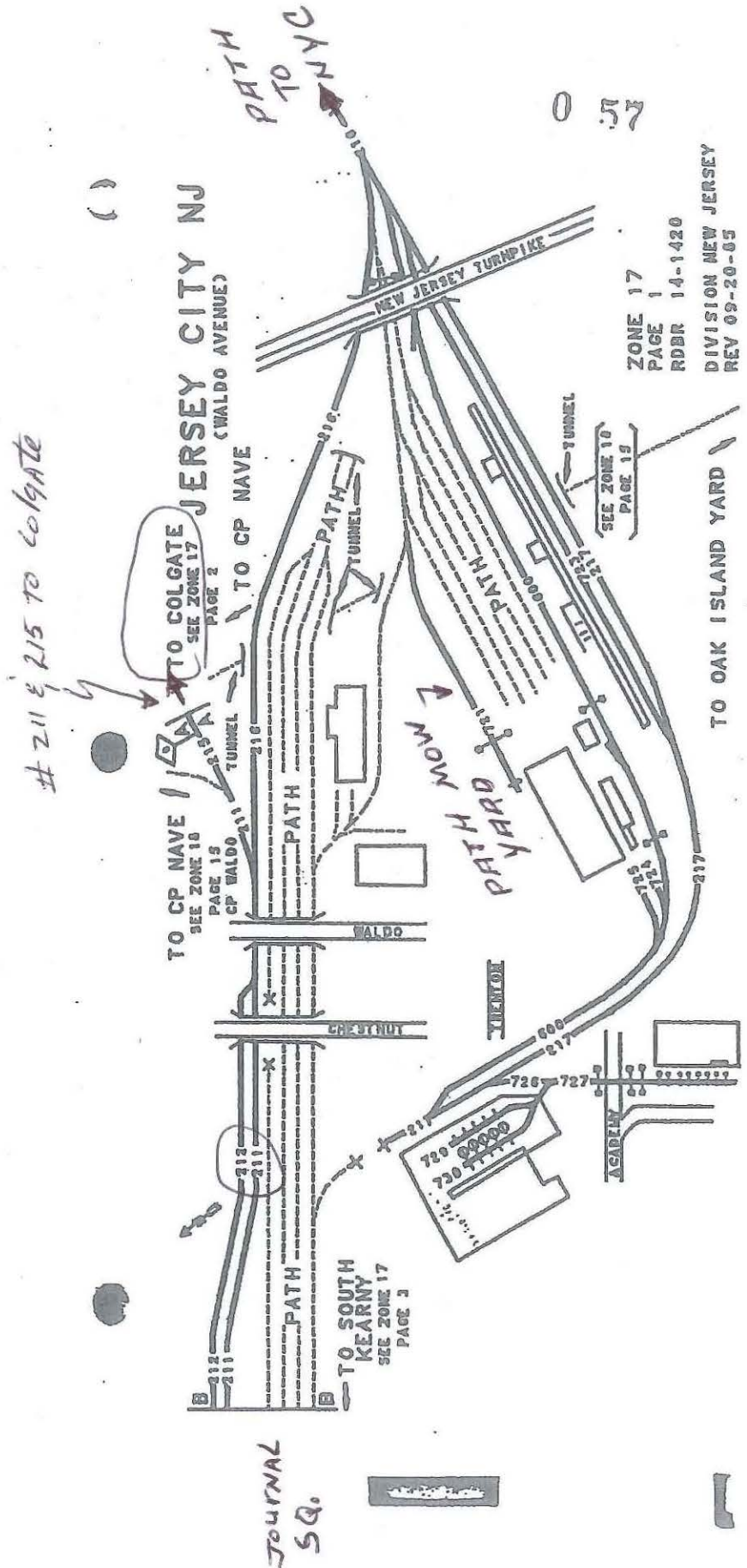
Undergrade Bridge	0.88	- Marin Boulevard
"	0.80	- Manila Street
"	0.71	- Erie Street
"	0.62	- Jersey Avenue
"	0.53	- Coles Street
"	0.44	- Monmouth Street
"	0.36	- Brunswick Avenue

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.

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



0 57

ZONE 17
PAGE 1
RDBR 14-1420
DIVISION NEW JERSEY
REV 09-20-05

(2)

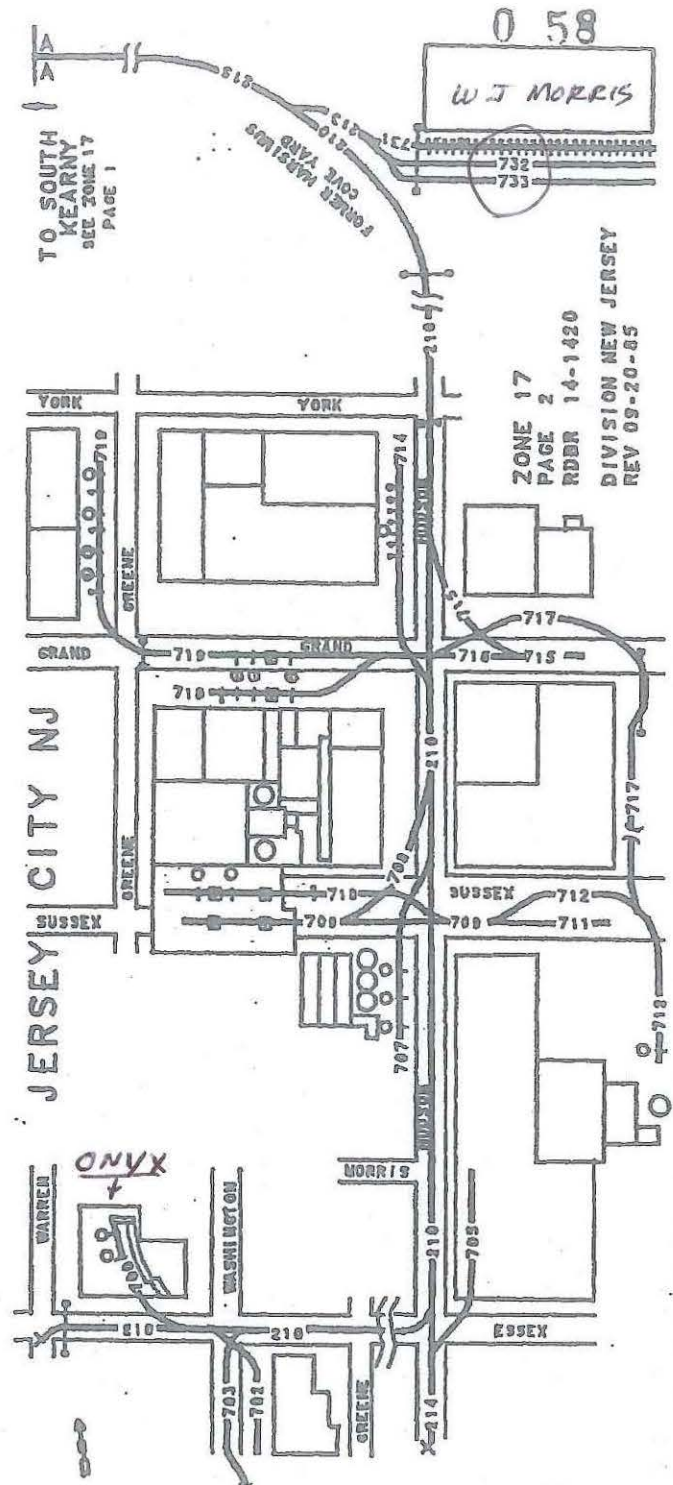
ZONE 17

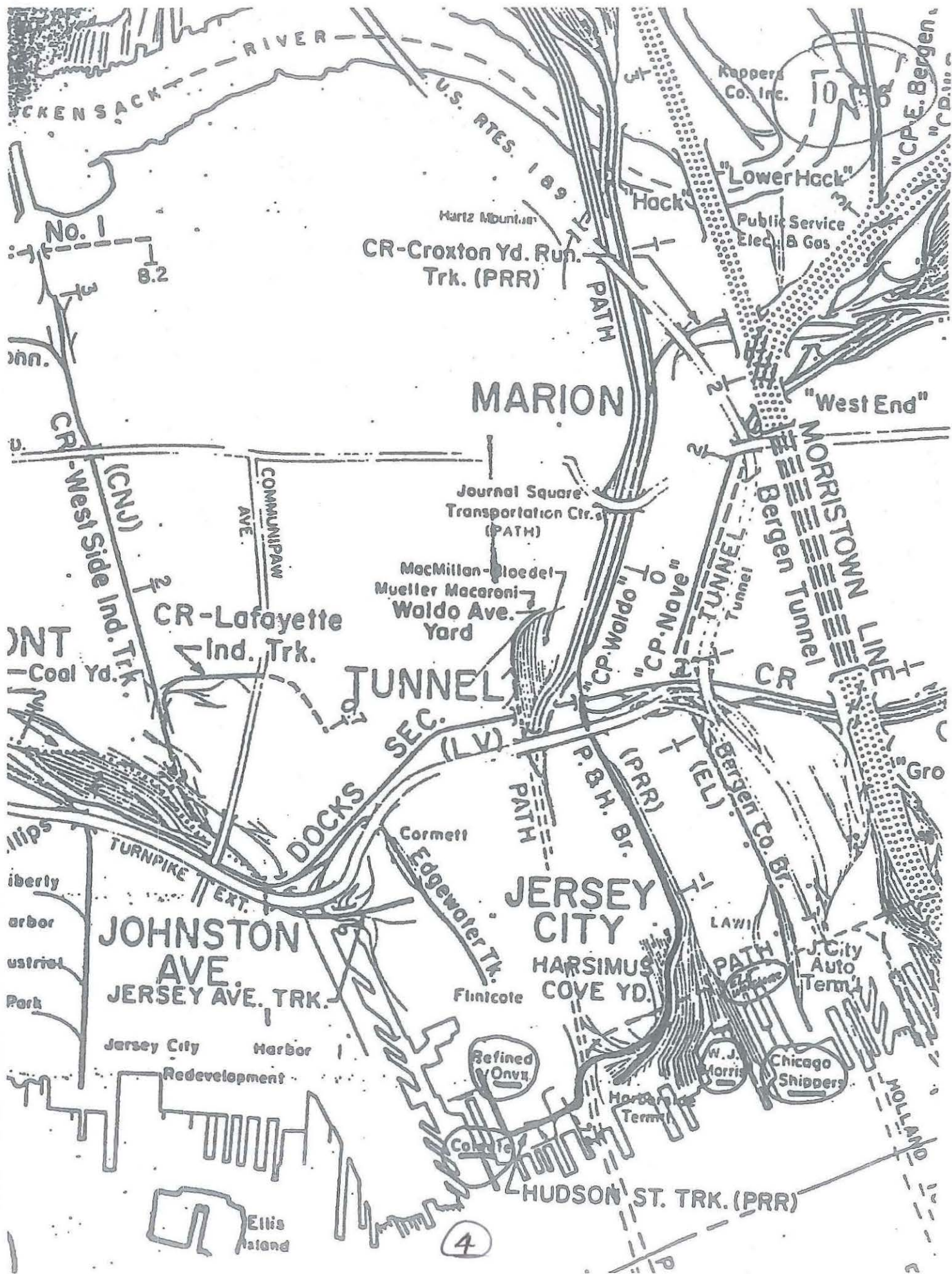
PAGE 2

COLGATE

- 17 210 00 00 Hudson St. Industrial
- 17 213 00 00 Hercules Cover #3 Ladder
- 17 214 00 00 Switching Lead
- 17 215 00 00 Hercules 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 03 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 03 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

man's house?





N.J. TRACK CHART UP DATED AS
OF 5-5-78

CONRAIL

0 20

5
MAINTENANCE PROGRAM

AND

TRACK CHART

ATLANTIC REGION
NEW JERSEY DIVISION

HER
CORRECT TO 1-1-77

301012

HARSINUS BR. NP 1.3-NP 7.0.

6

25

NAME	BETWEEN	M.P. TO M.P.	CODE
MAIN LINE (N.Y. TO BOSTON)	N.Y. (PENN STA.) & HAROLD (L.I.R.R.)	0.0 - 84.5	1411
MAIN LINE (N.Y. TO PHILA.)	N.Y. (PENN STA.) & HOLMESBURG JCT.	0.0 - 76.0	1401
ML (JERSEY CITY - PHILLIPSBURG)	JERSEY CITY (GREEVILLE) & CP BOYD	2.9 - 36.0	0201
ML (JERSEY CITY - VAN ETEN)	JERSEY CITY & PORT READING JCT.	0.0 - 35.8	0501
MAIN LINE SOUTH (C.N.J.)	REDBANK & WINSLOW JCT.	38.3 - 104.2	0215
RIVER LINE (CP WALDO - CP 132)	CP WALDO & WEEHAWKEN	4.5 - 0.0	1412
RIVER LINE (CP WALDO - CP 132)	WEEHAWKEN & CP 132	0.0 - 132.3	1413
AMBOY SECONDARY	S. AMBOY JCT & JAMESBURG	0.5 - 13.6	1425
BELVIDERE DELAWARE BRANCH	TRENTON & KENT	0.0 - 16.0	1124
BLOODGOODS BRANCH	CLARK & GARDEN STATE PKY	19.3 - 20.3	0532
BONHAMPTON BRANCH	METUCHEN & BONHAMPTON	0.1 - 1.7	1433
BORDENTOWN SECONDARY	TRENTON & BORDENTOWN	0.0 - 6.0	1126
BORDENTOWN SECONDARY	EDGEWATER PARK & BORDENTOWN	16.0 - 26.8	1125
BRANCH #6	NAT'L DOCKS BR. & BAYONNE	7.8 - 8.5	0536
BRISTOL BRANCH (OLD LINE)	BRISTOL, PA.	0.0 - 2.6	1471
CATSKILL MOUNTAIN BRANCH	KINGSTON POINT & BLOOMVILLE	0.0 - 86.5	1436
CENTER STREET BRANCH	HUDSON & CENTER STREET (HARRISON)	0.0 - 0.9	1431
ENTERPRISE BRANCH	COALFORT YARD, TRENTON, N.J.	0.0 - 4.1	1456
FLORENCE BRANCH	FLORENCE & OLIVE STREET	0.0 - 0.9	1466
FREEHOLD SECONDARY	FARMINGDALE & JAMESBURG	8.4 - 27.1	1427
GREENVILLE BRANCH	WAVERLY (WA-5) & GREENVILLE YARD	0.0 - 5.5	1422
HARRISON BRANCH	HARRISON & HARRISON FREIGHT STATION	0.0 - 1.4	1432
HARRISON E. NEWARK CONN.	HARRISON, N.J.	0.0 - 0.6	1438
HARSIMUS BRANCH	JERSEY CITY & KEARNY	1.3 - 7.0	1420 ← 1420
HIGH BRIDGE BRANCH	HOPATCONG JCT. & GENERAL FOAM	21.9 - 25.4	0207
HIGHTSTOWN SECONDARY	JAMESBURG & HIGHTSTOWN	13.6 - 21.7	1437
HUDSON STREET BRANCH	JERSEY CITY	0.0 - 1.3	1440 ← 1440
IRVINGTON BRANCH	HILLSIDE & IRVINGTON	12.7 - 15.5	0511
JAMESBURG BRANCH	MONMOUTH JCT. (M.L.) & JAMESBURG	0.0 - 5.5	1426
KINGSTON BRANCH	MONMOUTH JCT. (M.L.) & ROCKY HILL	0.0 - 6.3	1429
LAKE HOPATCONG BRANCH	HOPATCONG JCT. & MORRIS COUNTY JCT.	0.0 - 1.0	0208
MARTINS CREEK BRANCH	"CR" & MARTINS CREEK	0.0 - 0.3	1459
MEADOWS BRANCH - TRACK NO. 1	MEADOWS YARD & FEDERAL SHIP YARD	0.0 - 0.8	1434
MEADOWS BRANCH - TRACK NO. 2	MEADOWS YARD & LINCOLN HIGHWAY	0.0 - 0.9	1434
MILLHAM BRANCH	MILLHAM & COALPORT YARD	0.0 - 2.1	1455
MILLSTONE BRANCH	NEW BRUNSWICK & EAST MILLSTONE	0.2 - 6.6	1428
MT. HOPE & MINERAL R.R.	WHARTON & MT. HOPE	0.0 - 3.0	0210

HARSIMUS

HSIT

NEW JERSEY DIVISION INDEX

0 55

Hudson Street Track

(Dollars in Thousands)

<u>Customer</u>	<u>12 Months Ended 9/84 Carloads</u>	<u>Conrail Revenue</u>
Colgate Palmolive	1,068	\$2,681
* W. J. Morris	186	155
* Refined Onyx	107	183
* "B" Line Trucking	41	75
* Manischewitz	<u>35</u>	<u>34</u>
	1,437	\$3,128

Customers Which Will Relocate

Chicago Shippers	1,403	\$1,753
Elk Warehouse	<u>364</u>	<u>287</u>
	1,767	\$2,040
Total	<u>3,204</u>	<u>\$5,168</u>

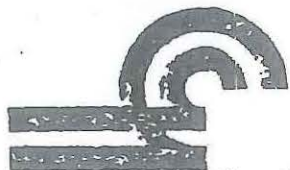
* Customers remaining on this line.

TJMc/Costing
1/17/85

Copies to C. A. Bassani
S. E. Nadler
P. D. Cohen
from
G. M. Williams, Jr.
1-29-85

0 53
MEMORANDUM

CONRAIL



FIVE

DATE January 28, 1985

TO R. B. Hasselman

FROM J. F. Folk

Room 1740

Room 950

SUBJECT

Passaic & Harsimus Branch / Hudson Street
Track, Jersey City, NJ

PHONE

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.

Elk Warehouse
Chicago Shippers
1767 CARS 8784

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.

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	CUSTOMR	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

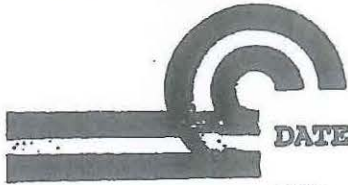
COMMENT: KEY CUSTOMER IS CIBA-GEIGY

1987 REHAB: \$ 158.6 I

YEAR	CARS	CUSTOMR	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

ONRAIL



JFB -
Yes - MEF
is pulling together info.
which we will review w/ WAM.
SN 1-20-88
cc WAM, JPB, MEF
↑

MEMORANDUM

0-4C Nov 12-82

0 5027

DATE: January 15, 1988
TO: J. F. Bétak 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

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

Harsimus Cove
See pp. 5
2f

PRR Freight Connections

From the XXX 1944 ORER

A-B-C-D-E-F-G-H-I-J-K-L-M-N-O-P-R-S-T-U-V-W-Y-Z

Akron & Barberton Belt	Barberton, O.
Akron, Canton & Youngstown	Akron, O.
	Chatfield, O.
	Delphos, O.
	New Washington, O.
Alton	Atlanta, Ill.
	Chicago, Ill.
	Chicago, Ill. (via B.R. of C.)
	East St. Louis, Ill. (via T.R.R.A. or Alton & Southern)
	Minier, Ill.
	Peoria, Ill. (via P.&P.U.)
Alton & Southern	East St. Louis (Washington Park), Ill.
Ann Arbor	Cadillac, Mich.
	Toledo, O.
Arcade & Attica	Arcade, (Arcade Jct.), N.Y.
Atchison, Topeka & Santa Fe	Chicago (Clearing), Ill.
	Morton, Ill.
	Peoria (Pekin) Ill. (via P.&P.U. or P.U. and P.T. Co.)
Atlantic Coast Line	Norfolk (Pinners Point), Va. (Via N.&P.B.L.)
Baltimore & Ohio	Akron, O.
	Altamont, Ill.
	Attica Jct. O.
	Auburn, Ind.
	Avilla, Ind.

	Winchester, Va.
	Wooster, O.
	Xenia, O.
	Youngstown (Haselton), O.
	Zanesville, O.
Baltimore & Ohio Chicago Terminal	Chicago, Ill.
	*East Chicago, Ind.
Bay Terminal	Toledo, O. (via W.&L.W. or Tol. Term.)
Bellefonte Central	Bellefonte, Pa.
	Tyrone, Pa.
Belt Ry. of Chicago	Chicago (Clearing), Ill.
	*So. Chicago (Colehour), Ill.
Benwood & Wheeling Connecting	Benwood, W.Va.
Bessemer & Lake Erie	Butler, Pa.
	Erie, Pa.
	Houston Jct., Pa.
	Linesville, Pa.
	Mercer, Pa.
	Shenango, Pa.
Boyne City	Boyne Falls, Mich.
Brooklyn Eastern District Terminal	Greenville, N.J. (via float)
	Harsimus Cove (Jersey City), N.J. (via float)
Buffalo Creek	Buffalo, N.Y.
Bush Terminal	Greenville, N.J. (via float)
	Jersey City, N.J. (via float)
Cambria & Indiana	Manver, Pa.
	Nantyglo, Pa.
	Rexis, Pa.

	Lima, O. (via B&O or DT&I)
	Maple Grove, O.
	Marion, Ind.
	Muncie, Ind.
	New Castle, Ind.
	Oakland, Ill.
	Peoria, Ill. (via P.&P.U.)
	Plymouth, Ind.
	Portland, Ind.
	Red Key, Ind.
	Rushville, Ind.
	Sandusky, O. (via N.Y.C.)
	South Whitley, Ind.
	Thornton Jct., Pa.
	Toledo, O. (via Toledo Terminal)
New York Dock Ry.	Greenville, N.J. (via float)
New York, New Haven & Hartford	Greenville, N.J. (via float)
	Harsimus Cove, N.J. (via float)
	Jersey City, N.J. (via float)
	Sunnyside Yard (L.I.), N.Y.
New York, Susquehanna & Western	Marion (Croxtton)(West End), N.J.
Norfolk & Portsmouth Belt Line	Norfolk, Va.
Norfolk & Western	Cincinnati, O.
	Circleville, O.
	Clare, O.
	Columbus, O. (Grogan)
	Hagerstown, Md.
	Idlewild, O.

Spur Decisions Made by Law Department
(DO NOT REQUIRE ICC/STB FILING)

0 48

Line Name	Type	LC	MP 1	MP 2	Rt. Mi.	Att'y	Decision Date	Requested by
Arlington Ave. I.T. (Indianapolis, IN)	Line	60-8342	-0.90	0.70	1.60	JJP	5/1/95	F. R. Stapleton
Athol Br. (Athol, MA)	Spur	unknown				JJP	6/24/93	R. C. Krafty
Avonmore I.T. (Avonmore, PA)	Spur				1.90	JJP	11/15/95	F.B. Gossic
Axle Works I.T. (Homestead, PA)	Spur				0.80	JJP	11/1/89	M. A. Hutchinson
Beaver I. T. (Lovett, PA)	Spur	20-2144				JJP	6/1/93	J. W. Fallon
Bens Creek (Portage Dump Trk)	Spur	20-2149	0.00	0.68	0.68	JJP	4/28/93	J. W. Fallon (04/12/93)
Bloodgood Br. (Union County, NJ)	Spur	10-0532	19.91	20.05	0.14	JJP	5/6/94	Z. Drzewiecki
Bloomfield / Belleville, NJ	Spur	unknown				JJP	5/12/93	Z. J. Drzewiecki
C-A-P Br. (Scranton, PA)	Spur				0.00	JJP	11/7/96	G. Smith
Claremont R.T. (Baltimore, MD)	Spur	20-			1.10	JKE	11/7/95	G. Comstock
Dad's Dog Food Lead (Meadville, PA)	Line	40-6501			0.50	JJP	5/10/96	F. B. Gossic
Dillsburg Br.	Spur				0.50	JJP	6/15/95	J. Ahonen
Edgemoor I. T. (Edgemoor, DE)	Spur	10-1252	0.00	1.00	1.00	JJP	8/2/93	M. C. Rosamilla
Engleside I. T. (Phila, PA)	Spur	10-1183	0.00	0.30	0.30	JJP	6/4/93	Richard Cross
Enola Branch (Marysville, PA)	Jt. Project	10-1326	74.00	74.40	0.40	JJP	6/9/96	A. T. Bankson
Exon Lead (Sharonville Yard Lead)	Spur	60-8211	0.00	0.67	0.67	JJP	1/4/96	F. R. Stapleton
Former Beech Creek	Spur	unknown				JJP	5/12/93	J. W. Fallon
Fort Wayne, Ind. Lead	Spur	unknown				JJP	6/24/93	R. D. Threlkeld (land sale)
Frankford St. I. T. (Trenton Ave. Ln)	Spur	10-1174				JJP	8/24/95	N. J. Prosperi (track lease)
Franklin I. T. (Franklin, OH)	Spur	60-8258	3.60	4.20	0.60	JJP	5/7/93	M.S. Scime
Gettysburg I. T. (Carlisle, PA)	Spur	20-0315	0.00	0.80	0.80	JJP	11/4/93	J. W. Fallon
Grand Jct. (East Boston I. T.)	Spur	30-4132	7.67	9.50	1.83	JJP	10/9/95	J. H. Ahonen
Greencastle I. T.	Spur	unknown				JJP	6/3/93	J. W. Fallon
Harsimus Br. (Jersey City, NJ)	Spur	10-1420	0.00	1.36	1.36	JJP	4/14/94	J. R. Beard (02/16/94)
Hastings Branch (Hastings Jct., PA)	Spur	20-xxxx	0.00	2.60	2.60	JJP	8/2/93	J. W. Fallon
Herkimer Spur (Herkimer, NY)	Spur				0.00	JKE	10/26/95	J. Hindman
Hudson Sec. (Maybrook, NY)	Spur	30-0101	0.00	2.10	2.10	unknown	no letter on file	
Hudson St. I. T. (Jersey City, NJ)	Spur	10-1440	0.00	1.30	1.30	JJP	4/29/93	T. P. Dwyer
Hurley Lumber Ld (Perth Amboy)	Spur	unknown				JJP	1/20/93	Z. J. Drzewiecki (12/15/92)
Indian Run Ind. Track (Kensington, PA)	Spur	40-2288	1.10	1.30	0.20	JJP	11/9/94	F. B. Gossic
Johnstown I.T. Johnstown, PA)	Line		1.10	1.60	0.50	JKE	11/10/95	G. R. Comstock
Kalamazoo Br. (Grand Rapids, MI)	Spur	50-5341	94.00	94.45	0.45	JJP	5/16/96	J. Kelly
Kennedy Valve Spur (Elmira, NY)	Spur	30-6304	246.90	249.10	2.20	JJP	6/12/96 - JJP	
Lancaster Mills I. T.	Spur	30-4182	0.60	1.50	0.90	JJP	5/14/93	M. G. Peterson
Langhorne Team Track / Ind. Lead	Spur	unknown				JJP	12/18/93	M. C. Rosamilla (land sale)
Mardella I. T. (Salisbury, MD)	Spur	10-1239	39.40	40.80	1.40	unknown	no letter on file	
Marginal Branch	Spur	40-22JJ			0.49	JJP	6/27/97	Brian Harrison
Middle Canal/Lumber (Williamsport, PA)	Spur	20-2316	217.90	218.10	0.20	JJP	11/22/94	A. K. Robbline / G. L. Smith
Millbrook Siding (Elmira, NY)	Spur	unknown				JJP	8/2/93	M. B. Phillips (land sale)
Muncy Br. (Muncy, PA)	Spur	unknown	0.00	0.60	0.60	JJP	2/23/95	C. A. Archer (Fallon, 02/02/94)

0.59

From: John K. Fiorilla [mailto:jfiorilla@capehart.com]
Sent: Monday, July 11, 2005 1:27 PM
To: Bridget McLaughlin
Cc: Ryan, Bob; calampi@calampi-law.com
Subject: July 13 Sale Enbankment Jersey City

Bridget: I spoke to Carmine this morning and after consultation with my client I would appreciate if you would let him know the following:

1. Real Estate transfer tax is NOT exempt from payment since this is not active railroad property. However our agreement with your client indicates that the buyer will pay this tax regardless of what the local custom is.
2. Regarding real estate tax adjustments, we are working on these and should have them by the end of the day.
3. Regarding the tax declarations faxed to us they appear to apply only to individuals and not corporations. Our client indicated that they recently checked the box regarding the fact that it was not a an individual, estate or trust and was exempt. I note that we would sign both that form and the non residency form but there is no withholding.
4. We are obtaining copy of that tax bill for Block 446 Lot 18a as Carmine requested.
5. Conrail will NOT provide an affidavit of title since the deeds involved are quitclaim deeds and this is mentioned in the contract for sale.
6. The properties abandoned constituted "Spur tracks" over which the STB and previously the ICC had no authority pursuant to 49 USC§ 10906. Therefore no formal abandonment of the property was ever filed. (I have attached a copy of that section of the 49 USC to this email).
7. Regarding the payment of the moneys owed, we have sent the info regarding wiring the funds to our account. Later this week we will wire to your account \$ 1,000,000 from our client Conrail to your trust account on behalf of Steve Hyman reflecting option funds held by our client Conrail in this matter. Please confirm that we can send a letter with wording like this later in the week. We will also send a check for the amount of the real estate transfer tax which will have been sent to us along with the \$ 3,000,000 from the bank so that your firm can pay those charges on behalf of the buyers pursuant to the agreement of sale.

Let me know if you have any comments regarding this.

John K. Fiorilla, Esq.
Capehart & Scatchard P.A.
8000 Midlantic Drive, Suite 300
Mount Laurel, NJ 08054

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Thank you.



Ex 2-E Proposed Development

Brendan Judge, Esq. (Bar No. 021561991)
CONNELL FOLEY LLP
One Newark Center
1085 Raymond Blvd., 19th Floor
Newark, New Jersey 07102
973-436-5800
973-436-5801 (fax)
Attorneys for Defendants

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JAMES RIFFIN,

Plaintiff,

v.

FOREST CITY RATNER COMPANIES,
G&S INVESTORS/JERSEY CITY, L.P., G&S
METRO PLAZA LLC, GS FC JERSEY CITY
PEP I URBAN RENEWAL LLC, and GS FC
JERSEY CITY PEP II URBAN RENREWAL
LLC,

Defendants.

Civil Action No. 01:16-cv-04433 (ES-JAD)

JOINT PROPOSED DISCOVERY PLAN

Pro se Plaintiff, James Riffin, and Defendants, Forest City Ratner Companies, G&S Investors/Jersey City, L.P., G&S Metro Plaza LLC, GS FC Jersey City PEP I Urban Renewal LLC, and GS FC Jersey City PEP II Urban Renewal LLC (collectively, "Defendants"), submit this Joint Proposed Discovery Plan.

Please note, that Defendants' Motion To Dismiss the Complaint is currently pending before the Honorable Esther Salas, so **the parties jointly request that all discovery be stayed** until such time as Judge Salas rules on the Motion.

(1) A brief statement of the facts underpinning the claims or defenses in the action, as well as a brief statement of the legal issues in the case;

Plaintiff's Position:

(1) Statement of alleged facts:

In 1976, pursuant to the Final System Plan, Conrail acquired the Harsimus Branch and the Hudson Street Industrial Track ("HSIT"), both of which are 'lines of railroad,' and everything appurtenant thereto, including the remains of the Harsimus Cove Rail Yard. In 1985, Conrail sold a portion of the Harsimus Cove Yard to National Bulk. In 1994 National Bulk sold 18 acres of what it acquired from Conrail, to Defendants' predecessor in title. Conrail never obtained authority to abandon the Harsimus Branch or the HSIT. The Defendants, or their predecessors in title, never obtained authority to acquire any portion of the Harsimus Branch or the HSIT. In 2009, Conrail filed a Notice of Exemption to abandon the Harsimus Branch. See Surface Transportation Board Docket No. AB 167 (Sub. No. 1189X). Three entities, including Plaintiff, filed Notices of Intent to acquire portions of the Harsimus Branch ("Notice"), via the Offer of Financial Assistance ("OFA") procedures. Once an OFA Notice is filed, federal law requires the status quo of the line of railroad in question, to be maintained. Defendants are in the process of changing the status quo of that portion of the Harsimus Branch that traversed the portion of the Harsimus Cove Yard upon which Metro Plaza was built. 49 U.S.C. 10903 prohibits a rail carrier from abandoning any portion of a line of railroad without authority. 49 U.S.C. 10901(a) prohibits any person from acquiring any portion of a line of railroad without authority.

(2) Legal issues:

Plaintiff seeks a determination of the proper classification of the track segments that traversed Metro Plaza. If the Court determines that one or more of the track segments that traversed Metro Plaza are 'lines of railroad,' which are appurtenant to the Harsimus Branch, then Plaintiff

will ask the Court to order the Defendants to maintain the status quo of those lines of railroad, until the OFA process in AB 167 (Sub. No. 1189X) has concluded. Defendants challenge this Court's jurisdiction, and Plaintiff's 'standing.' Plaintiff argues that the Court has concurrent jurisdiction with the STB. Plaintiff argues that his OFA Notice and / or his Declaratory Order proceeding in FD 36078, give him 'standing.'

Defendant's Position:

Defendants deny that any line of rail road traversed the parcels on which Metro Plaza was built and that Plaintiff is entitled to any relief. Defendants have filed a Motion To Dismiss the Complaint because all the issues raised in the Complaint are the subject of the exclusive jurisdiction of the Surface Transportation Board (the "STB") (or in some cases the jurisdiction of a special court that has exclusive jurisdiction to interpret orders conveying property to Conrail). Moreover, Mr. Riffin lacks standing to bring the claims contained in the Complaint because he has not sustained any particularized injury as a result of any act or omission of any Defendant. Additionally, the Administrative Law Judge in the related STB proceeding granted a motion for sanctions against Mr. Riffin and struck from the record Mr. Riffin's Notice of Intent to File an OFA and prohibited him from participation in the STB proceedings.

- (2) A description of all discovery conducted by the parties to date;

None.

- (3) A description of all discovery problems encountered to date, the efforts undertaken by the parties to remedy these problems, and the parties suggested resolution of the problems;

None.

- (4) A description of the parties further discovery needs;

The parties intend to seek all discovery permitted by the Federal Rules of Civil Procedure.

- (5) The parties estimate of the time needed to complete discovery;

Plaintiff estimates that discovery should take only 3 months from the date the Court rules on Defendants' Motion to Dismiss the Complaint. Defendants estimate they will need 9 months for fact discovery from date the Court rules on Defendants' Motion to Dismiss the Complaint.

(6) A statement regarding whether expert testimony will be necessary, and the parties' anticipated schedule for retention of experts and submission of their reports;

Expert testimony may be necessary. The parties propose that Plaintiff's expert report be served no later than 30 days after the close of fact discovery; that rebuttal reports will be due 30 days thereafter. The parties further propose that expert depositions will be conducted within 45 days after the production of the rebuttal reports.

(7) A statement regarding whether there should be any limitation placed upon use of any discovery device and, if so, the reasons the limitation is sought;

The parties do not seek at this time a limitation on the use of any discovery device.

(8) A description of any special discovery needs of the parties (e.g., videotape, telephone depositions, or problems with out-of-state witnesses or documents, or discovery of digital information) (see L.Civ.R. 26(d));

Plaintiff has no special discovery needs at this time. Defendants anticipate some discovery issues regarding electronic discovery as Plaintiff has already been sanctioned by the Administrative Law Judge in the related proceeding before the STB for violating the Judge's discovery order.

Dated: November 11, 2016



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CHG

DATE: 9/4/12

PROJ: 100805

SCALE: 1"=250'

DATE: 9/4/12

PROJ: 100805

SCALE: 1"=250'

DATE: 9/4/12

PROJ: 100805

SCALE: 1"=250'

STANLEY L. OMLAND, N.J. Professional Engineer, Lic. 246503095600

DAVID B. BIXON, N.J. Professional Land Surveyor, Lic. 24650728200

HYMAN PROPERTY

Attachment A

Historic Conditions 1976-1979

JERSEY CITY, HUDSON COUNTY, NEW JERSEY

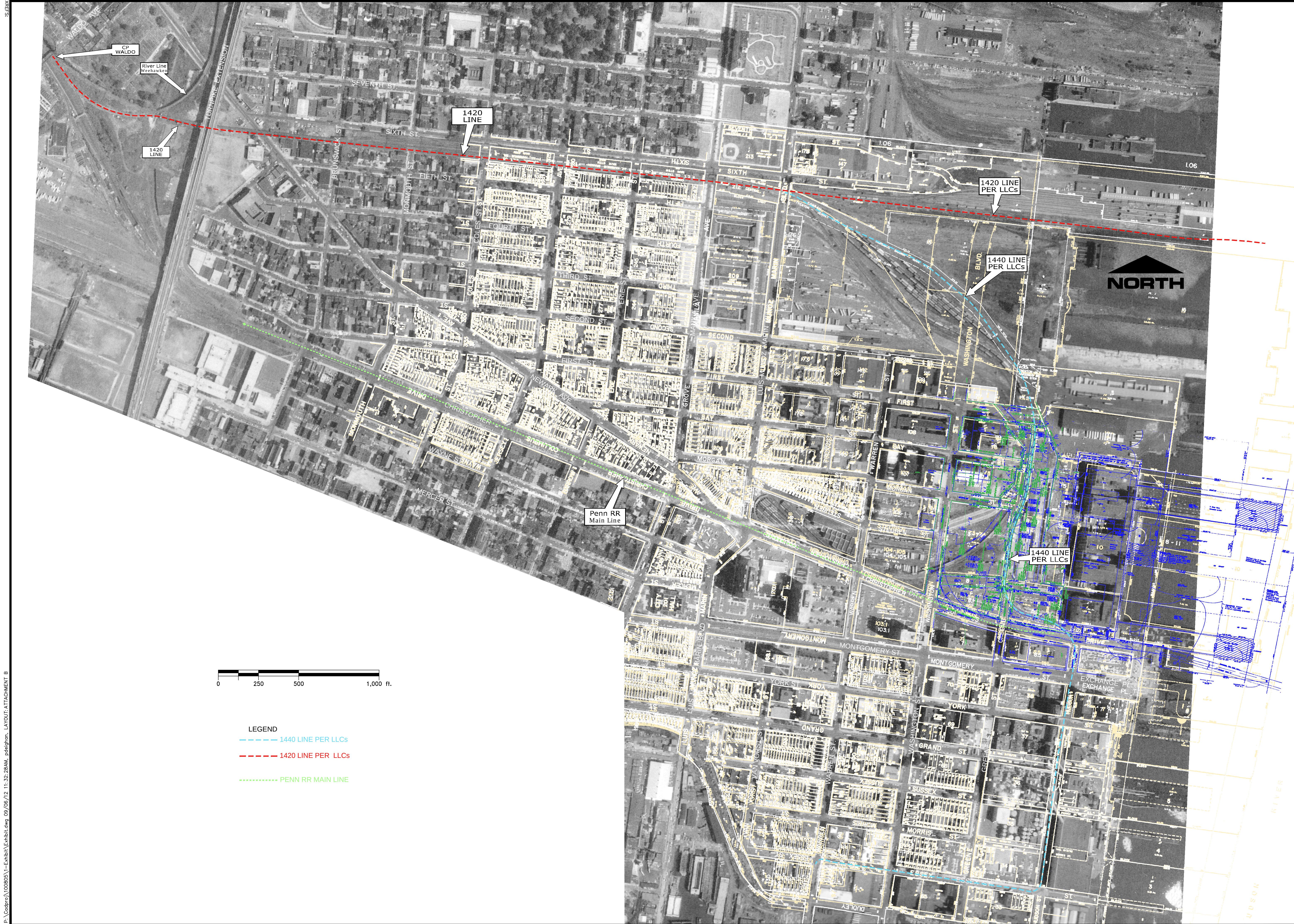
OF

SHEET No.

SE-10

P:\Cadproj\100805\1-Exhibit\Exhibit.dwg 09/06/12 11:32:28AM pdelighon_LAYOUT ATTACHMENT B

P:\Cadproj\100805\1-Exhibit\Exhibit.dwg Attachment B, 9/6/2012 11:32:26 AM, pdelighon, 1.1



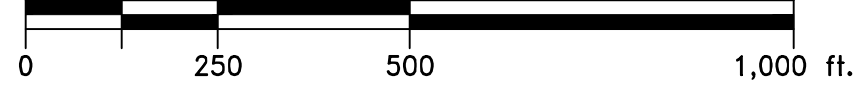
EXHIBITS FOR
HYMAN PROPERTY
Attachment B
Location of Rail Lines from CP Waldo 1976-1979
JERSEY CITY, HUDSON COUNTY, NEW JERSEY

SHEET No.
OF

DATE: 9/4/12
PROJ: 100805
SCALE: 1"=250'
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STANLEY L. OMLAND, N.J. Professional Engineer, Lic. 246503099600
DAVID B. BLOOM, N.J. Professional Land Surveyor, Lic. 24650728200

NO.	REVISIONS	CHKD.
6		
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- LEGEND
- 1440 LINE PER LLCs
 - 1440 LINE PER CONRAIL
 - 1420 LINE PER LLCs
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 - 1420 LINE PER CITY

DATE: 9/4/12
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SCALE: 1"=250'

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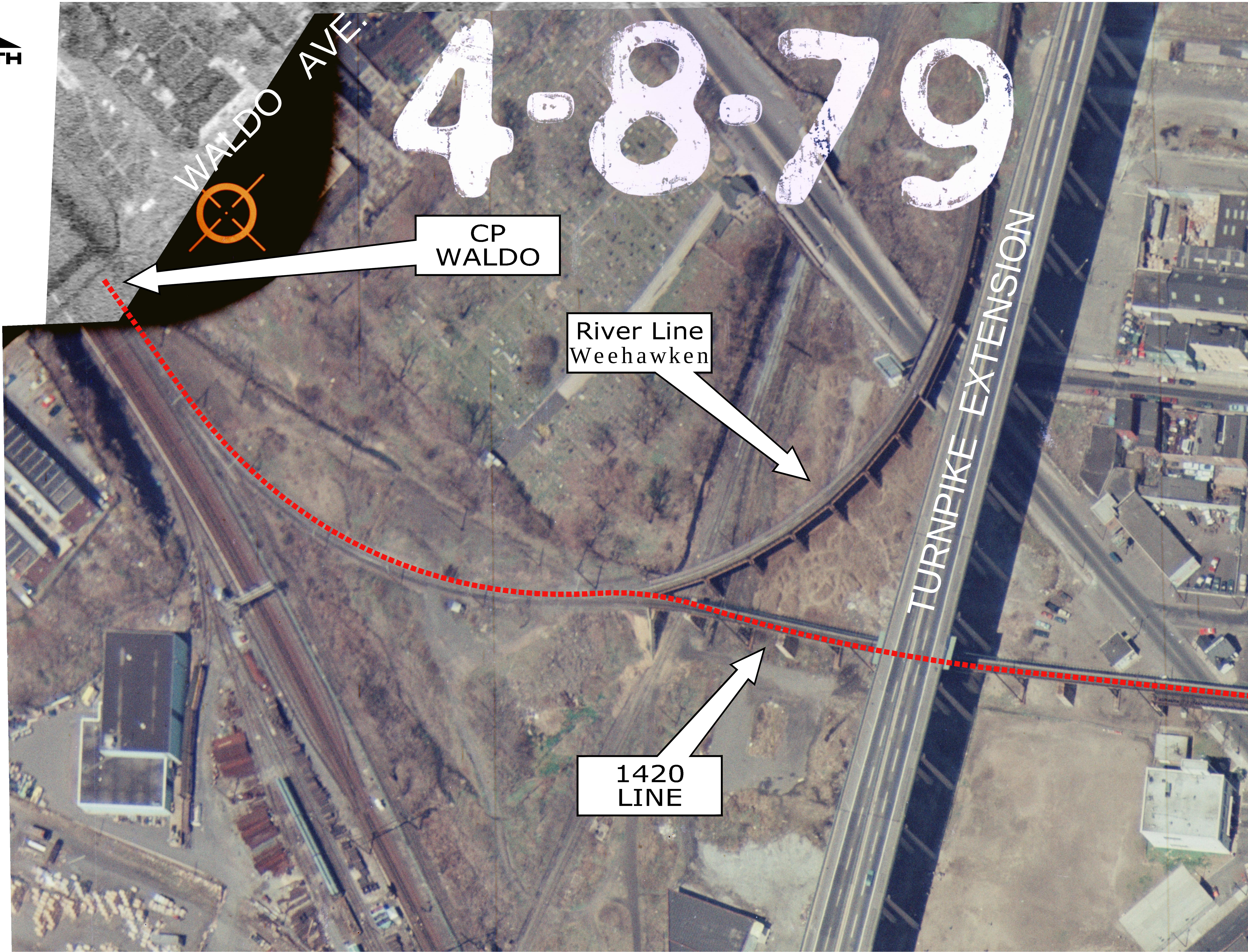
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E-mail: omland@omland.com
NJ Certificate No. 246503095600

OMLAND
ENGINEERING ASSOCIATES, INC.

EXHIBITS FOR
HYMAN PROPERTY
Attachment C
Contested Rail Locations - 2007 / Present
JERSEY CITY, HUDSON COUNTY, NEW JERSEY

SHEET No. _____
OF _____

SEBY



P:\Cadproj\100805\1-Exhibit\Exhibit.dwg 09/08/12 11:37:58AM pdelphim_LAYOUT\ATTACHMENT D

EXHIBITS FOR
HYMAN PROPERTY
Attachment D
River Line and Harsimus Branch at CP Waldo - 1979
JERSEY CITY, HUDSON COUNTY, NEW JERSEY

OF

SHEET No.

DATE: 9/4/12

PROJ.: 100805

SCALE: 1" = 50'

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SCALE: 1" = 50'

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REVISIONS

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