

Before the Surface Transportation Board

241042

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ENTERED
Office of Proceedings
July 5, 2016
Part of
Public Record

Conrail -- Abandonment)
) AB 167 (Sub-no. 1189X)
--in Hudson County, NJ.)

and

CSX Transp. - Discon. of)
Service - same) AB 55 (Sub-no. 686X)

and

Norfolk Southern -)
Discon. of Service - same) AB 290 (Sub-no. 306X)

Second Motion on behalf of City of Jersey City et al
to Compel James Riffin
to Respond to Discovery (Document) Requests

City of Jersey City, Rails to Trails Conservancy, and
Pennsylvania Railroad Harsimus Stem Embankment Preservation
Coalition (City et al) hereby move, pursuant to 49 C.F.R.
1114.21, 1114.30, and 1114.31, for an order directing James
Riffin to respond fully and completely to document requests
tendered on behalf of City et al.

City et al on March 28, 2016 served (by email and Express
Mail) upon James Riffin the document requests set forth in
Exhibit A. The document requests call for a response by April
19. Although Mr. Riffin several times promised a response (as
set forth in our first motion to compel), he failed to do so.
On May 2, City et al accordingly filed a motion to compel. At
that point, Mr. Riffin served (by US Mail postmarked on that

date) a response to City et al's document requests. A copy is attached as Exhibit B. Mr. Riffin also proceeded to file with this Board a flurry of papers in reply to the motion to compel contending, inter alia, the original motion to compel was moot. City et al agreed that the original motion was moot, and withdrew that motion in a filing dated June 7.

Unfortunately, Mr. Riffin's belated May 2 response to the document request served by City et al was nothing more than a set of misrepresentations and objections. City et al accordingly makes this second motion to compel.

City et al's document requests to Riffin fall into two categories: (1) communications between Riffin and 212 Marin Boulevard LLC, et al (Mr. Hyman) and/or Conrail, and (2) documents relating to Riffin's financial responsibility (if any apart from reliance on the LLCs to put up the money) to make an OFA, including his bankruptcy as discussed by STB in F.D. 35873, decision served March 24, 2016, p. 2 n.2. City et al will discuss the specific objections made by Riffin to each document request below.

City et al's document requests 1 and 2 (Riffin communications with LLCs or Conrail).

Riffin denies that he has any documents, including emailed documents from the LLCs, Hyman or the LLCs' attorney Horgan. In the attached verified statement (Exhibit C), Eric Strohmeier,

principal of CNJ Railroad, states that he has personal knowledge that Riffin has received from or sent to the LLCs documents and still had same as of approximately one week ago (long after Riffin's denial that he had any). Mr. Strohmeier's verified statement indicates that Mr. Riffin's claim that he has no responsive documents was not true when he made it on or about May 2.

Mr. Riffin did not file a verification to his assertion that he had no documents responsive to document request one. If he has no documents on May 2, 2016, then he should file a verification under penalties for perjury. Otherwise he should produce the responsive documents or be removed from the proceeding.

Riffin in response to document request 2 (and in contradiction to his claim of no documents in response to document request 1), says that he has sent documents to Hyman, Horgan and Conrail's counsel (Jenkins) but that the documents were "suggested settlement terms" which he says are privileged or confidential. Riffin has not purported to enter an appearance as an attorney or representative of the LLCs in this proceeding. No one claims he is an attorney for Conrail. His communications with the LLCs and Conrail therefore are not subject to attorney-client privilege or entitled to any other related protection. Moreover, no one associated with Conrail or

the LLCs is holding themselves out as Riffin's attorney. Riffin cannot claim that his own communications (business negotiations) with individuals or entities who are not his attorneys are covered by any attorney-client or related privilege. They are simply discoverable communications. To the extent they contain information entitled to confidential treatment as commercially sensitive, this Board has entered a protective order which will serve to maintain all the confidentiality that is appropriate to maintain in an STB proceeding. City et al, however, acknowledge that it is unclear that anything between Riffin and the LLCs qualifies for protection under the protective order. But that only underscores the spurious nature of any confidentiality objection. In any event, Riffin has waived any claim of privilege or confidentiality by sharing his dealings with the LLCs and Conrail with CNJ Railroad.

City et al's document request 3 relating to Riffin's financial responsibility.

Riffin has stated elsewhere that he intends to rely on Mr. Hyman (principal of the LLCs) to fund his proposed OFA and that he intends to make 90% of the Branch available to the LLCs for non-rail use. City et al are entitled to inquire into this apparent abuse of the OFA process to further the interests of a developer seeking to demolish the Branch to turn it into townhouses and/or skyscrapers. Mr. Riffin first objects that

the documents are privileged and confidential and not subject to a document request. This is spurious for the reasons stated for his similar objection to document requests 1 and 2.

Riffin also claims the documents are not relevant or material. If the documents show or suggest a relationship with Hyman as Riffin indicates in his pleadings to the U.S. Supreme Court and to the Third Circuit (see attachments C and D to City et al's first motion to compel), or as he declared to this Board in his pleading filed on June 11, 2015, in this proceeding, then they are highly relevant and material. They demonstrate a scheme on the part not only of Riffin but also of the LLCs to abuse this Board's processes, and specifically to mis-use the OFA remedy. Riffin in his response (Exhibit B) seems to deny that he has a business relationship with the LLCs, but that is contradicted by his representations to the Courts (attachments C and D to City's first motion to compel). When a party says one thing one place and denies it another, discovery is not only appropriate but also necessary to establish what is true, because the word of the party is no longer reliable.

Finally, Riffin, citing AB 1071, served Dec. 12, 2012, objects that the Board has stated that it is inappropriate for it to rule on the sufficiency of Riffin's evidence [of financial responsibility] in the abstract. But City et al is not seeking some sort of ruling on the sufficiency of evidence. What City

et al are seeking are documents that suggest that Riffin in league with the LLCs intend what amounts to an abusive and illegitimate use of STB processes and procedures.

Document request 4 (bankruptcy petitions and final orders).

The City's final document request asks for petitions and final orders in Riffin's bankruptcy proceedings, including but not limited to those referenced by STB in its decision served March 24, 2016, in F.D. 35873 at p. 2 n.2.

Riffin objected to this request, basically on undue burden grounds, claiming that the documents are public and may be found via PACER. But if a party wishes to refer to a public source, the party should identify that source with reasonable specificity, including jurisdiction, case number, and docket number. Mr. Riffin supplied nothing. Based on STB's references in F.D. 35873, supra, City et al have so far tracked down two bankruptcy proceedings which appear to involve Riffin: (a) In re: WMS LLC, No. 11-13085 (Bankr. D. Md.), and (b) In re: Riffin, No. 10-11248 (Bankr. D. Md.). (In re Riffin is not directly referenced by STB in its March 24, 2016 decision, but is referenced in one of the decisions that STB does reference.) However, City et al have no idea if these encompass all such proceedings. Moreover, Riffin is in a far better position to identify the petitions and final orders by docket number than is

City et al to guess what is relevant. Riffin's undue burden objection is an undue transfer of burden to City et al.

Other Riffin contentions. Mr. Riffin has also made some additional general objections in letters and various pleadings in response to City et al's first motion to compel. None has merit and our failure to address any of his arguments made elsewhere is not an admission of their validity here. We will comment only on his claim, which Conrail and the LLCs also make, that discovery is inappropriate in abandonment proceedings.

This claim is spurious for the reasons set forth in the Appendix. In any event, this Board already has addressed this objection when lodged by Conrail and 212 Marin Boulevard, LLC, and has permitted discovery. See, e.g., Consolidated Rail Corp. - Ab. Ex. - in Hudson County, NJ, AB 167-1189X, served May 22, 2015. While we believe the Board unreasonably truncated that discovery (see Appendix hereto), the point is that there is no bar on discovery in an abandonment proceeding. The discovery City et al now seek is not disruptive nor is it burdensome. Riffin could fulfill it by supplying his exchanges with Mr. Hyman or the LLCs' various attorneys. Given how Mr. Strohmeier describes Mr. Riffin's record keeping (Exhibit C), this likely could easily be done by electronic search of key words. There are no current filing deadlines set or applicable that forestall complete and full response to the discovery request tendered Mr.

Riffin in this proceeding. Since Mr. Riffin's own statements to this Board and to the Courts call into question his intent, motivation, and ability to provide rail service on the Harsimus Branch, and instead indicate that he acts on behalf of 212 Marin Boulevard, LLC et al (Mr. Hyman), Mr. Riffin's involvement appears to be in the nature of a further effort to evade this Board's jurisdiction and to thwart all public interest remedies aimed at keeping the Branch intact through misuse of the OFA process by Mr. Riffin in league with the LLCs. Discovery into these matters is clearly germane to this proceeding. If there is any burden on Mr. Riffin, it is warranted.

Any further or additional objections or arguments by Mr. Riffin against disclosing the requested documents is now untimely. Conrail's parent corporation (Norfolk Southern) has already recently explained that Mr. Riffin is a serial abuser of the OFA process.¹ This Board has indicated that it will apply sanctions against his abusive conduct.² Should Mr. Riffin fail to respond forthwith with the requested documents, he should be

¹ See generally Petition of Norfolk Southern Railway Company to Institute a Rulemaking Proceeding to Address Abuses of Board Processes, Ex Parte (EP) 727.

² See Petition of Norfolk Southern Railway Company to Institute a Rulemaking Proceeding to Address Abuses of Board Processes, Ex Parte 727, served Sept. 23, 2015, at 4 (Board suggests it will engage in "increased enforcement" of procedural rules to address abuse issues in context of Norfolk Southern's petition to deal with abusive practices by Riffin in OFA proceedings).

barred from any further participation in the OFA portion of this proceeding.

Relief. In sum, this Board should order Riffin immediately to respond to Exhibit A fully and completely without further objection, and bar him from any further participation in the OFA portion of this proceeding should he fail to do so. City requests that Riffin be required to respond fully and completely and without objection no later than ten days after STB issues a decision in this matter.

Delays. In closing, City et al reiterates its wish to pursue its Offer of Financial Assistance remedy, as well as its other remedies, in this proceeding pursuant to an orderly schedule established by this Board. Under prior orders of this Board, OFA's were due June 11, 2015.³ City was orally advised by STB staff on June 9, 2015, that the OFA schedule was vacated and a new one would be issued.⁴ With the consent of Conrail and CNJ Railroad (the other timely applicant to file an OFA), City proposed that the Board set a schedule for OFA's to be due on June 19, 2015.⁵ As of July 1, 2016 (over one year later), STB has yet to set a schedule. City continues to receive inquiry from shippers supporting City's efforts to OFA. City is unaware

³ City's Request for Clarification dated 9 June 2015 in AB 167-1189X, p. 1.

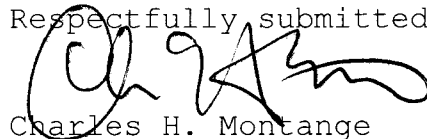
⁴ Id. pp. 1-2.

⁵ Id.

of any instance in which the deadlines for initiation and pursuit of the OFA process have been so long and indefinitely delayed. In brief, the delay is unprecedented. In the interval, Conrail's chosen developer (the LLCs) has launched yet another batch of state court litigation against the City's re-adoption of an ordinance authorizing OFA, and the City's bonding ordinance ensuring financing for the OFA. The delay to date, and the indefinite nature of the process, has harmed City and the public by delaying a remedy otherwise expeditiously available in abandonment proceedings, and the harm is compounded by the prolonged and - to the City - costly and burdensome litigation by the LLCs in state courts in the interval.

City et al do not wish to delay the proceeding by further motions; however, this motion is necessary to permit City et al can address the abuse of this agency's processes manifest in Mr. Riffin's participation in this proceeding ostensibly to assist the LLCs.

Respectfully submitted,



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Counsel for City et al

Attachments: Appendix; Exhibit A (document requests); Exhibit B (Mr. Riffin's response); Exhibit C (Mr. Strohmeier's verified statement)

Appendix

AB 167-1189X is an unusual abandonment proceeding. It involves an unlawful de facto abandonment of the last unused transportation corridor that otherwise could serve to alleviate congestion into Jersey City's downtown core. Moreover, the line in question encompasses a designated City Landmark (which also is eligible for the National Register of Historic Places) whose preservation would accomplish a multitude of other public interest goals, including but not limited to historic preservation and open space, consistent with the City's Master Plan. Unfortunately, it also involves an effort by Conrail and the LLCs, now extending into its second decade, (1) to evade STB jurisdiction, (2) to abuse the agency's processes, (3) to accomplish an unlawful transfer of a rail line from Conrail to the LLCs, and (4) to demolish the historic Harsimus Embankment with adverse impacts on adjoining historic districts and without any meaningful consideration of remedies which would avoid these toxic consequences. Since STB currently lacks an independent investigative capability (such capability requires an office that can make ex parte contacts to obtain witness statements and documents or alternative special arrangements which have not been made in this proceeding), it falls on parties to the proceeding to seek information on points (1) to (4) above through discovery. If the Board does not provide means for

parties opposed to the consequences of the Conrail/LLCs' unlawful de facto abandonments to develop evidence through discovery, then there is no means to ensure that relevant evidence of unlawful activity and unlawful intent (to the extent such showing is required) is presented to the Board. The Board cannot discharge its responsibility to regulate the industry in the public interest if it cannot or will not independently and vigorously investigate and if, at the same time, it does not permit parties adversely impacted by an unlawful abandonment to obtain full and complete discovery.

There are now at least two elements in AB 167-1189X that require a serious and meaningful investigation by this agency, or full and complete discovery against Conrail, the LLCs, and now Riffin. The two issues are (a) the intentional unlawful abandonment of the Harsimus Branch by purported transfer by Conrail to the LLCs in order to maximize profits by avoiding historic preservation regulation, and (b) Riffin's abuse, on behalf of the LLCs, of this agency's offer of financial assistance remedy in order to facilitate the LLCs' efforts to convert the rail line into non-rail uses (townhouses and skyscrapers).

Riffin has already explained to this Board that he filed his OFA out of sympathy for, and for the benefit of, the LLCs. Mr. Riffin has told this Board that

"[i]n effect, Riffin [in discussions with Mr. Hyman] has agreed to permit the LLCs to use about 90% of the rights associated with their [Harsimus Branch] properties [if the LLCs force Conrail to agree to Riffin's OFA]. If Jersey City prevails, Jersey City will use 100% of [the Harsimus Branch] and will divest the LLCs of their right to possess any of their properties. In effect, Riffin is Mr. Hyman's 'back up plan.'"

Riffin Response in AB 167-1189X, filed June 11, 2015, at p. 10.

In addition, Mr. Riffin has represented to the United States Court of Appeals for the Third Circuit and to the United States Supreme Court that he anticipates making an "offer of financial assistance" to acquire the Harsimus Branch "backed by Mr.

Hyman's [the manager of the LLCs] considerable assets" and that he feels he has some assurance of compensation from Mr. Hyman.⁶

⁶ See Riffin certiorari petition in the U.S. Supreme Court in another rail dispute in which he explains, at paragraphs 69 to 73 (pp. 14-16) (City et al's first Motion to Compel Riffin, Exhibit C). Riffin in his Supreme Court brief further indicates that the problem caused Hyman and Conrail by the City's OFA will force Conrail to sell 12 acres in the Palisades to Mr. Hyman as well, and net Mr. Riffin various benefits as compensation for facilitating the denouement and flummoxing the City. Mr. Riffin also evidently elaborated elements of this scheme in a "confidential" portion of a pro se pleading he filed in the Third Circuit proceeding (*Riffin v. STB*, 3d Cir. Nol. 15-2701, included in his pro se cert petition at pp. 77-78 (excerpts in City's first Motion to Compel Riffin, Exhibit D). Riffin informed the Third Circuit (which evidently declined to keep the pleading confidential) that he anticipated making an OFA for the Harsimus Branch in AB 167-1189X "backed with Mr. Hyman's

Riffin indicates that he expects Mr. Hyman to force Conrail to deal with Riffin due to Conrail's fear of liability to the LLCs for fraudulently claiming to Mr. Hyman and his representatives that the Harsimus Branch was not a line subject to STB abandonment jurisdiction.

This leads to the other matter warranting investigation and discovery. City et al over two years ago apprised the Board of the LLCs' allegations that Conrail had fraudulently misrepresented to the City, the courts, and this agency, as well as to the LLCs, that the Harsimus Branch was not subject to abandonment licensing jurisdiction. See City et al's Notice of Decision, Exhibit C, filed in AB 167-1189X on November 22, 2013. The LLCs' allegations were and remain relevant. First, the LLCs by their own admission still maintain Conrail acted fraudulently. Their counsel by email on June 9, 2016, advised counsel for City et al that "the LLCs have prepared significant

considerable assets." [Mr. Hyman is the manager of the LLCs.] See Riffin cert petition, p. 78 para 13. In any event, Riffin's abuse of STB processes in league with the LLCs is evidently intended to seize not only the Embankment but a significant undeveloped portion of the Jersey City palisades.

Mr. Riffin states many things in his cert petition (or quotes himself making statements elsewhere) concerning AB 167-1189X that are misleading or false, or both. However, City et al has no reason to doubt his representations to the Courts that he is relying on Mr. Hyman to finance his OFA, that he feels he has some assurance of compensation from Mr. Hyman, and that he is using the OFA process to accomplish non-rail ends for the LLCs.

fraud litigation against Conrail that has not progressed yet, only because the DC District Court declined to join the issue and the State Court has issued stay orders." Email, D. Horgan to C. Montange, copies to Jenkins (Conrail), Sloane (Conrail), Strohmeier (CNJ) and Riffin (emphasis in original).

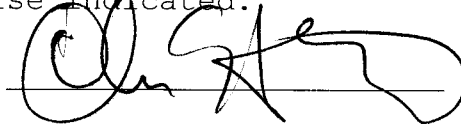
Second, Conrail has elsewhere argued that the LLCs timely knew all the relevant facts on which they now base their claims that Conrail engaged in fraud. But this is tantamount to Conrail showing that the LLCs were knowing participants in the fraud. In other words, by their own showings, Conrail and the LLCs demonstrate that they knowingly abused this agency's processes, for profit, and misrepresented what they were doing to the public, this agency, and the Courts. This abusive conduct cannot stand. If it does, it would encourage the regulated industry and developers to circumvent this agency's processes in violation of, inter alia, 49 U.S.C. 10903 in order to avoid environmental and historic preservation remedies. That violates, among other things, section 110(k) of the National Historic Preservation Act, as well as amounting to an intentional abuse of this agency's jurisdiction, and remedies.

The true victims of the showings Conrail and the LLCs make about each other of the unlawful de facto abandonment are the City and the public: the alleged/admitted fraud is frustrating access by the City and the public to remedies to keep the

Harsimus Branch intact in the public interest and in compliance with law.

Certificate of Service

The undersigned hereby certifies service by posting the foregoing in the US Mail, postage pre-paid, first class or priority mail, on or before the 5th day of July 2016 addressed to the parties or their representatives per the service list below, unless otherwise indicated.



Service List
(current as of December 2015)

Daniel Horgan,
Waters, McPherson, McNeill, P.C.
300 Lighting Way
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Secaucus, NJ 07096 (LLCs)

Robert M. Jenkins III
Mayer Brown LLP
1999 K Street, N.W.
Washington, D.C. 20006-1101 (Conrail)

Daniel D. Saunders
State Historic Preservation Office
Mail Code 501-04B
NJ Dept. Environmental Protection
P.O. Box 420
Trenton, NJ 08625-0420

Massiel Ferrara, PP, AICP, Director
Hudson County Division of Planning
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Secaucus, NJ 07094

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Executive Director
Preservation New Jersey
414 River View Plaza
Trenton, NJ 08611

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Jersey City Landmarks Conservancy
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Jersey City, NJ 07303

Jeremy Jacobson, President
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Jersey City, NJ 07302

President
Hamilton Park Neighborhood Association
PMB 166
344 Grove Street
Jersey City, NJ 07302

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

President
The Village Nbd Ass'n
365 Second Street
Jersey City, NJ 07302

President
Van Vorst Park Association
91 Bright Street
Jersey City, NJ 07302
President
Historic Paulus Hook Ass'n
192 Washington Street
Jersey City, NJ 07302

Dennis Markatos-Soriano
Exec. Director
East Coast Greenway Alliance
5315 Highgate Drive, Suite 105
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Gregory A. Remaud
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NY/NJ Baykeeper
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Sam Pesin, President
Friends of Liberty State Park
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Jersey City, NJ 07302

Aaron Morrill
Civic JC
64 Wayne St.
Jersey City, NJ 07302

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

James Riffin
PO Box 4044
Timonium, MD 21094

Supplemental Service List

Per a prior request of the Board, service is also made on the following addressees, although none is believed to continue to represent a party in the proceeding and/or is otherwise superceded.

Stephen Marks
Hudson County
583 Newark Avenue
Jersey City, NJ 07306

Gretchen Scheiman
Historic Paulus Hook Association
121 Grand Street
Jersey City, NJ 07302

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

Brian P. Stack
411 Palisade Avenue
Jersey City, MJ 07307

Dan Weber
Van Vorst Park Association
2989 Varick Street
Jersey City, NJ 07302

Exhibit A

BEFORE THE SURFACE TRANSPORTATION BOARD

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

And related discontinuance proceedings AB 55 (Sub no. 686X) (CSX Transportation, Inc.) and AB 290 (Sub-no. 306X) (Norfolk Southern Railway Company)

Request for the Production of Documents
Intervenors City et al to James Riffin

Pursuant to 49 C.F.R. 1114.30 and other applicable authority, intervenors City of Jersey City, Rails to Trails Conservancy, and Pennsylvania Railroad Harsimus Stem Embankment Preservation Coalition hereby request that James Riffin ("Riffin") deliver copies of the documents requested below to counsel for City et al his address below on or before that date pursuant to reasonable terms for payment for costs of duplication and delivery agreed to in writing with CNJ. To save time and money, scans may be forwarded by email attachment to the email address provided in the signature block, provided originals will be available upon request.

Definitions. For purposes of this Request, document shall mean any writing, notation, or record, regardless of form, and including but limited to both electronic and non-electronic media, including emails, diaries, business records, and all documents maintained, retained, authored, copied on, or received by consultants, officers, employees, negotiators, board members,

attorneys otherwise working for or on behalf of any party (including without limitation railroad, corporation, limited liability corporation, or individual) who has filed a pleading in AB 167-1189X.

Harsimus Branch shall mean any portion of the line of railroad between CP Waldo and Marin Boulevard in Jersey City transferred to Conrail as line code 1420, which line of railroad is the subject of the abandonment proceeding bearing STB docket AB 167 (Sub-no. 1189X).

"The LLCs" shall mean one, more or all of 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, 446 Newark Avenue, LLC, and NZ Funding, LLC.

Additional instructions. If Riffin claims privilege against disclosure of one or more documents, such as an attorney client privilege, then please identify the document by providing its author, the persons to whom it was directed, the persons who received copies of it, its date, its basic subject matter, the document request to which it is responsive, and the basis for the claim of privilege.

City et al request a response as soon as reasonably practicable, and no later than Tuesday, April 19, 2016.

These requests are continuing. If the recipient becomes aware of additional responsive material after making his response to these requests, that responsive material must be made available to City et al as provided above within three (3) business days of Riffin's receipt of the additional responsive material.

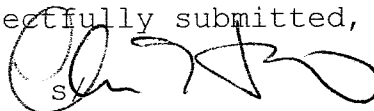
Document requests. All the following documents are hereby requested pursuant to the foregoing definitions and conditions:

1. All documents received or possessed by Riffin or any representative of Riffin from the LLCs or any person acting on behalf of the LLCs [including but not limited to the manager of the LLCs (Mr. Steve Hyman) or attorneys for the LLCs], relating in any fashion to the Harsimus Branch, including but not limited to disposition of property in the Harsimus Branch and legal or regulatory disputes concerning the Harsimus Branch, or relating to AB 167 (Sub-no. 1189X).

2. All documents (not otherwise provided pursuant to doc. Req. 1) sent or received by Riffin or on his behalf to or from (a) the LLCs (or any officer, employee, attorney or representative thereof) or (b) Consolidated Rail Corporation (or any officer, employee, attorney, or representative thereof) relating to the Harsimus Branch, other than legal pleadings filed with the Surface Transportation Board.

3. All documents relating to Riffin's financial responsibility for purposes of making an "offer of financial assistance" in AB 167 (Sub-no. 1189X), including applications for loans or any line of credit, or solicitations for co-investors.
4. All petitions (including amendments thereto) in bankruptcy proceedings and all final orders in bankruptcy proceedings of James Riffin which orders involve the discharge or partial discharge of debts owed by said Riffin, including but not limited to petitions and orders in bankruptcy proceedings referenced by the Surface Transportation Board in its Decision served March 24, 2016 in Finance Docket 35873 at p. 2 footnote 2.

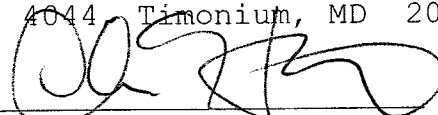
Respectfully submitted,



Charles H. Montange
426 NW 162d St.
Seattle, WA 98177
206-546-1936
Fax: -3739
Email: c.montange@frontier.com
for Intervenors City et al

Certificate of Service

I hereby certify service on 28 March 2016 of these document requests by email attachment addressed to jimriffin@yahoo.com and by US Mail, postage pre-paid, Express (next day delivery), to James Riffin, P.O. Box 4044, Timonium, MD 20094.



Charles H. Montange

Exhibit B

**Before the
Surface Transportation Board**

STB DOCKET NO. AB-167 (Sub-No. 1189X)

**CONSOLIDATED RAIL CORPORATION – ABANDONMENT EXEMPTION –
IN HUDSON COUNTY, NJ**

STB DOCKET NO. AB-55 (Sub-No. 686X)

**CSX TRANSPORTATION, INC. – DISCONTINUANCE OF SERVICE EXEMPTION –
IN HUDSON COUNTY, NJ**

STB DOCKET NO. AB-290 (Sub-No. 306X)

**NORFOLK SOUTHERN RAILWAY COMPANY – DISCONTINUANCE OF SERVICE
EXEMPTION – IN HUDSON COUNTY, NJ**

JAMES RIFFIN’S REPLY TO JERSEY CITY’S, ET. AL.’S

MARCH 28, 2016 REQUEST FOR DOCUMENTS

James Riffin (“**Riffin**”) herewith replies to Jersey City’s, et. al.’s, March 28, 2016 Request for Documents.

1. **Request:** “All documents received or possessed by Riffin or any representative of Riffin from the LLCs or any person acting on behalf of the LLCs [including but not limited to the manager of the LLCs (Mr. Steve Hyman) or attorneys for the LLCs], relating in any fashion to the Harsimus Branch, including but not limited to disposition of property in the Harsimus Branch and legal or regulatory disputes concerning the Harsimus Branch, or relating to AB 167 (Sub-No. 1189X).”

Reply: Riffin has not received, nor is he in possession of, any “documents” from the LLCs, Mr. Steve Hyman or Daniel Horgan, other than a ‘request for documents’ from Mr. Horgan. [Which request for documents Riffin declined to provide.] Riffin does not routinely receive, nor send, e-mails. Any e-mails Riffin receives are looked at (if from someone Riffin knows), then discarded. (Riffin’s computer is not connected to the Internet. Riffin does not have Internet service at his house. To use the Internet, Riffin must go to a library, or to a McDonalds, for Internet service. Riffin only looks at his e-mail account if and when someone telephones Riffin and tells Riffin to look at his e-mail account.)

The only ‘disposition of property’ discussions Riffin has had with Mr. Hyman, have been to advocate that (A) Mr. Hyman should have filed to Acquire and Operate the Embankment portion of the Harsimus (which request was summarily rejected by Mr. Horgan), (B) Mr. Hyman should support Riffin’s efforts to acquire the Harsimus via the OFA process (which Mr. Horgan has summarily rejected), and (C) that Mr. Hyman, Conrail and Jersey City should reach a settlement agreement wherein Conrail gives Mr. Hyman a sum of money, and the property west and north of Newark Avenue, Mr. Hyman grants Jersey City the use of three Embankment Tops, to be used for ‘parks,’ and Mr. Hyman creates a 30-foot wide by 30-foot high easement for ‘rail / trail’ purposes and Jersey City grants to Mr. Hyman development rights on the three remaining Embankment parcels, and on Conrail’s parcel west and north of Newark Avenue. To date, Conrail has not indicated that it has any desire to reach a settlement with Mr. Hyman; nor has Jersey City.

2. Request: “All documents (not otherwise provided pursuant to doc. Req. 1) sent or received by Riffin or on his behalf to or from (a) the LLCs (or any officer, employee, attorney or representative thereof) or (b) Consolidated Rail Corporation (or any officer, employee, attorney or representative thereof) relating to the Harsimus Branch, other than legal pleadings filed with the Surface Transportation Board.”

Reply: The only ‘documents’ that Riffin has sent to Mr. Hyman, Mr. Horgan or to Robert Jenkins, other than copies of Riffin’s STB pleadings, were Confidential ‘Suggested Settlement Terms.’ Being Confidential, they are privileged, and are not subject to a Document Request. They also were summarily rejected.

3. **Request:** “All documents relating to Riffin’s financial responsibility for purposes of making an ‘offer of financial assistance’ in AB 167 (Sub-no. 1189X), including applications for loans or any line of credit, or solicitations for co-investors.”

Reply: All such documents are confidential, privileged and are not subject to a document request. In addition, any such ‘financial responsibility’ documents are not relevant, nor material at this point in time, since no OFA process has begun. As the STB stated in AB 1071 (served December 12, 2012):

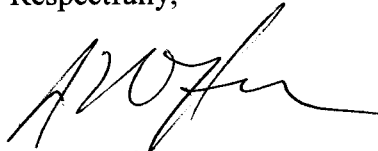
“It would be inappropriate for the Board, in effect, to rule formally on the sufficiency of Riffin’s evidence in the abstract, before Riffin’s OFA, if any, has been filed. The Board notes that it is the OFA offeror’s obligation to provide accurate information sufficient to show, **when the offer is filed**, that the offeror has or will have the means to carry out its offer.” Bold added.

In the event that Riffin does file an OFA at some time in the future, Riffin will provide a copy of his then current Personal Financial Statement.

4. **Request:** “All petitions (including amendments thereto) in bankruptcy proceedings and all final orders in bankruptcy proceedings of James Riffin which orders involve the discharge or partial discharge of debts owed by said Riffin, including but not limited to petitions and orders in bankruptcy proceedings referenced by the Surface Transportation Board in its Decision served March 24, 2016 in Finance Docket 35873 at p. 2 footnote 2.”

Reply: All such petitions and final orders are public documents, and may be obtained from the bankruptcy court via PACER. Such petitions and final orders are irrelevant and immaterial to the AB 167 / 1189X proceeding, since they were filed / rendered some five plus years ago.

Respectfully,

A handwritten signature in black ink, appearing to read 'JRiffin', written over a horizontal line.

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

Exhibit C

**Verified Statement
of
Eric S. Strohmeyer**

My name is Eric S. Strohmeyer. I am the Vice President and Chief Operating Officer of CNJ Rail Corporation, a New Jersey based railroad management and consulting business. My address is 81 Century Lane, Watchung, NJ 07069. I am over 18 years of age. I'm qualified and authorized to make this statement.

I am providing this verified statement in support of the City of Jersey City's ("City") second *Motion to compel*. I am providing this statement in order to provide the Board with testimony regarding certain activities of which I have personal knowledge.

Mr. Riffin has previously told me of the existence of certain documents which are germane to the Harsimus Branch that he has previously exchanged with Mr. Hyman, or representatives of Mr. Hyman.

In addition, I have had opportunity, from time to time, to briefly view Mr. Riffin's email account when he elected to check his email in my presence. For example, I was recently shown an email from Mr. Hyman to Mr. Riffin. I noted the email appeared to pertain to the Harsimus Branch and the surrounding litigation. As a result of these types of actions by Mr. Riffin, I am familiar with a portion of the contents of his account, including as it appeared approximately a week ago.

Prior to last week, I know he had sent emails, both with and without attachments, to and received same from, Mr. Hyman, among others. As of approximately a week ago, many of those emails appeared to still be in his email account. In some cases, I was copied on these emails, or they were forwarded to me.

Finally, as a result of my longstanding commercial relationship with Mr. Riffin, I have become very familiar with Mr. Riffin's many idiosyncrasies, including his email habits, but also his document retention practices. I have observed that he will retain documents received or produced in one of three forms; retained or stored in the "cloud" via email; downloaded, or otherwise stored on a flash drive; and most often, he will print a hard "paper" copy of a document he produced or received.

VERIFICATION

The foregoing Verified Statement is being made in accordance with the Board's regulations. By affixing my signature upon this statement herein below, I certify, under penalties of perjury, that the foregoing statement is true and accurate to the best of my knowledge and belief. In the event that anything contained herein is found to be false or misleading, I acknowledge that I may be subject to punishment.

Respectfully submitted,


Eric S. Strohmeyer

Executed on: July 1st, 2016