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July 10, 2018

Via Electronic Filing

Cynthia T. Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street S.W.
Washington, D.C. 20024

ENTERED
Office of Proceedings
July 11, 2018
Part of
Public Record

Re: Docket No. FD 36187
Passaic Street Properties, LLC
Operation Exemption Pursuant to 49 C.F.R. §1150.31
Our File No. 04378-85178

Dear Ms. Brown:

This firm represents the applicant, Passaic Street Properties, LLC, a non-carrier in the above captioned matter.

On June 19, 2018, New York & Greenwood Lake Railway filed a Motion to Supplement and/or Strike in connection with its previously filed Petition to Reject in the above captioned docket. Enclosed please find Passaic Street Properties, LLC's reply to such Motion to Supplement and/or Strike. In support of this reply, Passaic Street Properties, LLC, also submits with its reply the following:

1. A copy of the recorded deed, dated November 4, 1997 and recorded on July 17, 2007 in the Passaic County Clerk's office in Deed Book 1466 at page 211 from Consolidated Rail Corporation (Grantor) to New York and Greenwood Lake Railway (Grantee) (NYGL) – which describes the subject property previously owned by NYGL. (Exhibit "A")
2. A copy of the supplemental letter dated July 3, 2018 by Hector C. Lora, Mayor of the City of Passaic in support of the application filed by Passaic Street Properties, LLC. (Exhibit "B")
3. A copy of the Resolution #18-06-197 dated June 19, 2018 by the City Council for the City of Passaic finding and designating the subject property located at 99-11 Passaic Street, Passaic, New Jersey is an Area in Need of Redevelopment pursuant to N.J.S.A.40A:12A-5. (Exhibit "C")

Cynthia T. Brown
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Page 2

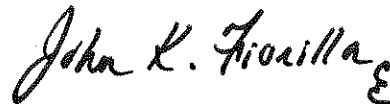
4. A copy of the Resolution #18-14 dated June 21, 2018 by the Passaic Redevelopment Agency designating Passaic Street Properties, LLC as the redeveloper for the redevelopment of the above mentioned property which is the subject of the application for the acquisition exemption. (Exhibit "D")
5. A copy of the Letter dated June 22, 2018 by Thomas J. Duch, Esq., City Manager of the City of Garfield in support of the petition for exemption of Passaic Street Properties, LLC. (Exhibit "E")

By copy of this letter, I am simultaneously serving a copy of this letter and the enclosed documents by email and regular US mail to John D. Heffner, Esquire, attorney for NYGL.

If you have any questions regarding this filing, please advise.

Sincerely,

CAPEHART & SCATCHARD, P.A.



John K. Fiorilla

JKF:pmb
Enclosure

cc: Jay Pasternack, Esq. (w/enc. – *via email*)
Fadi Samaan (w/enc. – *via email and Regular Mail*)
John D. Heffner, Esq. (w/enc. – *via email and Regular Mail*)
Thomas J. Duch, Esq. City of Garfield (w/enc. – *via email and Regular Mail*)

**Before the
Surface Transportation Board**

FD - 36187

**PASSAIC STREET PROPERTIES, LLC
ACQUISITION OF NEW YORK & GREENWOOD LAKE RAILWAY, INC.
OPERATION EXEMPTION**

**REPLY TO MOTION TO SUPPLEMENT PETITION TO REJECT
FILED BY NEW YORK & GREENWOOD LAKE RAILWAY, INC
PURSUANT TO 49 U.S.C. § 10502(D)**

Submitted By:

John K. Fiorilla, Esq.
Capehart & Scatchard, P.A.
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Mount Laurel, N.J. 08054
(856) 914-2054
Attorneys for Passaic Street Properties, LLC

Dated: July 10, 2018

Before the
Surface Transportation Board

FD - 36187

PASSAIC STREET PROPERTIES, LLC
ACQUISITION OF NEW YORK & GREENWOOD LAKE RAILWAY, INC.
OPERATION EXEMPTION

REPLY TO MOTION TO SUPPLEMENT PETITION
TO REJECT FILED BY
NEW YORK & GREENWOOD LAKE RAILWAY, INC
PURSUANT TO 49 U.S.C. § 10502(D)

I.

INTRODUCTION

On May 1, 2018, Passaic Street Properties, LLC, a non-carrier (“PSP”), file a notice of exemption under 49 U.S.C. § 10901 and 49 C.F.R. § 1150.31 from the requirements of 49 U.S.C. § 10902 (the “Notice of Exemption”) for PSP to acquire the rights to operate a line of railroad currently out of service for which the New York & Greenwood Lake Railway, Inc. (hereinafter “NYGL”) has not operated in more than five years. The line is located in the City of Passaic, County of Passaic and City of Garfield, County of Bergen, New Jersey. The line is known as the Dundee Spur and more particularly described in the Notice of Exemption (the “Property”).

On May 10, 2018, NYGL filed a Petition to Reject the Notice of Exemption alleging these circumstances are not eligible for an expedited class exemption. NYGL is requesting that

this Board order and direct PSP to re-convey the Property back to the IRS, while NYGL retains the Surplus Proceeds and the benefit of satisfaction of its federal tax liabilities.

On May 30, 2018, PSP filed a reply to NYGL's Petition to Reject the Notice of Exemption.

On May 31, 2018, the STB entered an order to postpone the effective date of the exemption until further order of the Board.

On June 19, 2018, NYGL filed a motion to Supplement and/or Strike in support of its Petition to Reject the Notice of Exemption filed by PSP.

PSP now submits its reply under 49 C.F.R. §§ 1100.3, 1104.13(a), 1117.1 and 1104.13(3) to NYGL's motion to supplement because (a) since NYGL raised new factual issues and new legal issues, PSP should be afforded the opportunity to respond; (b) NYGL argument that the notice filed by the Internal Revenue Service (IRS) in connection with the levy and sale of the subject property contains discrepancies is mistaken; (c) NYGL misleads the STB by failing to disclose that NYGL no longer has any rights, title or interest in the subject property, nor any right to use and occupy the subject property; (d) the STB has no jurisdiction to overturn the IRS levy and sale; (e) The federal court has jurisdiction to consider any objections to an IRS levy and sale; (f) NYGL is out of time to file any objection to the IRS levy and sale; and (g) the City of Passaic plans for redevelopment of the subject property is progressing expeditiously.

In short, PSP urges this Board to deny NYGL's motion to supplement its Petition for the reasons set forth below.

II

REPLY TO NYGL'S MOTION TO SUPPLEMENT

A. PSP SHOULD BE ALLOWED TO REPLY TO NYGL'S MOTION TO SUPPLEMENT UNDER 49 C.F.R. § 1104.8, 1117.1 AND/OR 49 C.F.R. § 1100.3.

NYGL filed its motion to supplement under 49 C.F.R. §§ 1100.3, 1104.13(a) and 1117.1. Section 1104.13(3) bars a reply to reply. However, Section 1104.8 provides the Board may strike any matter that is irrelevant, immaterial or impertinent. Section 1117.1 permits a party to seek relief not provided for in any other rule. Section 1100.03 provide that the STB rules should be construed liberally to secure a just, speedy and inexpensive determination.

NYGL urges this Board to liberally construe its rules and consider this reply in the interest of justice, fairness and to assist the Board in making a just, speed and inexpensive determination, without the need for unnecessary discovery. PSP would be prejudiced if it could not respond.

B. NYGL's MOTION TO STRIKE STATEMENT BY PSP'S COUNSEL SHOULD BE DENIED.

The one page certification of John Fiorilla, Esq., submitted in support of PSP's Reply to NYGL's Petition to Reject Exemption, is in compliance with 49 C.F.R. § 1104.0 since it was submitted in good faith, based upon personal knowledge, investigation and not for purpose of delay. The certification simply includes a general description of the subject property and the general type of rail service performed by NYGL, all of which is not denied by NYGL. Based upon Mr. Fiorilla's investigation of websites, he also made reference to alternative railroads located in New Jersey that provide bulk material transload services for bulk material destined to or destined from points in northern New Jersey. All of this information is in the public domain

and can be obtained by anyone searching the county records or internet. Such statements made by Mr. Fiorilla are relevant to the facts and circumstances of PSP's petition for acquisition exemption. NYGL offers no legitimate or rational basis to strike Mr. Fiorilla's comments. As such, NYGL's motion to strike the statements made by Mr. Fiorilla in the reply by PSP to NYGL's Objection to Exemption should be denied.

**C. THERE ARE NO DISCREPENCIES IN THE NOTICE FILED BY THE
INTERNAL REVENUE SERVICE IN CONNECTION WITH THE LEVY AND SALE
OF THE SUBJECT PROPERTY.**

At page 10 of NYGL's supplemental motion, NYGL argues that there were discrepancies between the Public Auction Sale and Notice of Seizure and the description of the property by PSP. Such comparison is not relevant to the IRS levy and sale. NYGL fails to mention that the Notice of Sale (attached to NYGL's motion) expressly provides that the "Description of property" is included in the "deed located at the Passaic County Courthouse Hall of Records located in Deed Book 1466 page 211". In fact, the description of the subject property in the deed from Conrail to NYGL, dated November 14, 1997 and recorded on July 17, 2007 in the office of the Passaic County Clerk in Deed Book 1466, page 211 is identical to the description of the property conveyed by the IRS to PSP by Quit claim deeds, dated March 29, 2018, recorded in Bergen County and Passaic County New Jersey. To suggest that NYGL has rights to challenge the IRS levy and sale due to any discrepancies related to the description of the property is disingenuous.

A copy of the Conrail Deed recorded in Deed Book 1466 page 211 is submitted as Exhibit "A" with this reply. Copies of the IRS Quit Claim Deeds, dated March 29, 2018 were previously submitted by PSP with its original petition.

D. NYGL NO LONGER HAS ANY RIGHTS, TITLE OR INTEREST IN THE OWNERSHIP OR USE AND OCCUPANCY OF THE TRANSFER STATION.

As set forth in PSP's initial reply, the deed from the IRS to PSP "shall be considered and operate as a conveyance of all the right, title and interest the party delinquent had in and to the real property... at the time the lien of the United States attached thereto." 26 U.S.C. § 6339(b) (2). The delivery of the deeds to the purchaser discharges any "liens, encumbrances and titles" which attached to the real property after the federal tax lien. 26 U.S.C. § 6339(c).

See also, 26 C.F.R §301.63335-1)(b)(2), which provides that such deed "shall be considered and operate a conveyance of all the right, title, and interest the party delinquent had in and to the real property thus sold at time of the liens of the United States attached thereto."

It is undisputed that upon receipt of the deed from the IRS, NYGL no longer has any interest in the property and no longer has any right to use or occupy the property. U.S. Congress designated the United States Federal District Courts with jurisdiction to decide civil actions to challenge an alleged wrongful levy by the IRS on property that has been sold pursuant to a levy. 26 U.S.C. § 7426. If Congress desired for the STB to have concurrent jurisdiction to hear challenges to an IRS levy, it could have done so. But Congress did not do so and, accordingly, the STB has no jurisdiction to adjudicate if a property has been wrongfully levied or should be returned.

The integrity of an IRS levy and sale is of paramount importance as a matter of public policy. The federal courts have held that courts lack power to extend the 180 day redemption period, even for powerful equitable considerations. See Taylor v. United States, No. CIV 90-1929, 1993 WL 597379 (D. Ariz. Sept. 27, 1993) ("the purpose behind section 6637 is to allow

taxpayers whose property has been seized by the IRS to repurchase their property, if they can do so within 180 days”).

The material facts in this case are simple and undisputed. The IRS sold the subject property to PSP pursuant to a levy and sale. NYGL never redeemed the property within the 180 day redemption period. The IRS delivered Quit Claim Deeds to PSP conveying all rights, title and interest in and to the property, including the transfer station, rail tracks and bridge. NYGL implicitly acknowledged and endorsed the IRS sale by making application and receiving from the IRS the surplus proceeds in excess of \$400,000 paid by PSP pursuant to the sale.

NYGL has failed to submit to the STB any credible evidence demonstrating that it has (or even has the financial ability) purchased or leased an alternative property for the purposing of offering and operating transload services from rail to truck or truck to rail in New Jersey. It appears that NYGL’s objection is merely a tactic for delay.

Accordingly, the Board should deny NYGL’s motion to supplement its Objection to Exemption and deny NYGL’s petition for Objection to PSP’s petition for acquisition exemption.

E. NYGL IS OUT OF TIME TO FILE ANY OBJECTION TO THE IRS LEVY AND SALE.

NYGL fails to mention that it no longer has any right to object to the levy and sale of the subject property. 26 U.S.C. § 7426 (Civil Action by persons other than taxpayer) governs any claims if a property or interest in a property has been sold pursuant to a wrongful levy. Congress limited this right to persons other than taxpayers and designated the federal district court with jurisdiction to hear such claims. 26 U.S.C. § 7426(b)(2)(A) provides that if the Court determines that a property has been wrongfully levied, then such non-taxpayer may obtain an order for return of the specific property “if the United States is in possession of such property.” Otherwise,

26 U.S.C. § 7426(b) (2) (B) provides that if the property was sold, then the remedy is limited to a judgment.

26 C.F.R. § 301.63335-1 governs the sale of seized property. 26 C.F.R. § 301.63339-1 governs the legal effect of a deed of real property by the IRS pursuant to a levy and sale. Specifically, 26 C.F.R. § 301.6343-1 governs the release of a levy. Specifically, 26 C.F.R. § 301.6343-1(c) includes a procedure for a taxpayer to challenge an IRS levy to the IRS. Subpart (2) clearly provides that “[e]xcept in extraordinary circumstances, a request for a release of a levy must be made more than five days prior to a scheduled sale of property to which the levy relates”. Subpart (3) provides that the director of the IRS must make a prompt determination of the release prior to sale. There is no IRS regulation allowing a taxpayer to challenge a levy after the sale and certainly not after the 180 day redemption period has expired.

As such, Congress protected the integrity and finality of the IRS levy and sale.

F. STB HAS NO JURISDICTION TO OVERTURN THE IRS LEVY AND SALE. EXTENUATING CIRCUMSTANCE EXIST TO GRANT PSP’S EXEMPTION.

At page 11 of NYGL’s supplemental motion, NYGL admits there is “no precedent on point” for the Board to assert jurisdiction to review the IRS levy and sale of the subject property or the ability to order PSP to re-convey the property to the IRS. Nevertheless, NYGL continues to argue that the Board “clearly” has the ability to order PSP to re-convey the subject property to the IRS, while NYGL retains the net proceeds in excess of \$400,000. There is no merit to this argument.

NYGL’s reliance on the following STB decisions is misplaced. Land Conservancy of Seattle and King County- Acquisition and Operation Exemption- Burlington Northern and Santa Fe Railway Company, FD 33389 (Decided: May 13, 1998) and SF&L Railway, Inc. - Acquisition and Operation Exemption- Toledo, Peoria and Western Railway Corporation Between La Harpe

and Peoria, IL, FD 33995 (Decided: October 15, 2002; last subsequent motion for reconsidered denied on April 2, 2003). In Burlington Northern and Santa Fe Railway Company, the Board held “TLC had put into effect a plan to convert the line to rail use as soon as possible following its acquisition of the line and that where, as here, an acquiring non-carrier initiates abandonment proceedings within days after consummating the acquisition of a line and there are no extenuating circumstances, our processes are being abused.” In *SF&L Railway, Inc.*, the Board found that SF&L had abused the STB processes by buying the Line not to operate it but to sell it for salvage. These cases are distinguishable from PSP’s circumstance since there were no “extenuating circumstances”.

Neither of these cases concern properties acquired through an IRS levy and sale. Neither of these cases involves rail property that has been inactive for years and allowed to fall into a substandard, unsafe, unsanitary and underutilized property. Neither of these cases involves property designated as “an area in need of redevelopment” pursuant to a state law redevelopment process. Neither of these cases involves a portion of a former rail track that bifurcates a municipal park and could become a pivotal piece to the redevelopment of a municipal park system.

Here, “extenuating circumstances” exist to support the granting of PSP’s acquisition exemption: (1) the subject property was sold by the IRS to PSP pursuant to a levy and sale of the subject property, without NYGL timely exercising its rights to redeem the property; (2) unlike the facts in Burlington Northern and Santa Fe Railway Company, the subject property is not an active railroad, having no activity in the past five years; (3) existing alternative railroads in New Jersey are capable of meeting the shipping community’s need for rail service, including a transfer station; (4) the subject property has been declared an “area in need of redevelopment” by

the City of Passaic pursuant to a redevelopment plan; (5) PSP has recently been designated as the redeveloper of the subject property under the redevelopment plan; (6) Subject to this Board's approval, PSP proposes to redevelop the existing underutilized, unsafe and dilapidated property into a more productive, taxable and safer residential property; (7) Subject to this Board's approval, PSP has pledged to transfer a portion of the former rail track that bifurcates the Passaic's municipal park to the City of Passaic, enabling the City to proceed with planning for a \$10 million redevelopment of the municipal park system as a whole.

Under 49 U.S.C. § 10901(a) (4), the STB authorization is required for a non-carrier to purchase a rail line. The STB may, however, exempt a class of persons from its regulatory requirements when the Board finds that a full examination of a proposed transaction is not necessary. 49 U.S.C. § 10502(a). Congress had directed the agency to use its exemption authority liberally.

In short, PSP respectfully requests this Board to find that there exist "extenuating circumstances" and to grant PSP's acquisition exemption.

G. CITY OF PASSAIC'S REDEVELOPMENT PLAN FOR THE SUBJECT IS PROGRESSING EXPEDITIOUSLY.

The existing facts and circumstances are unique. As mentioned above, extenuating circumstances justify allowing PSP to obtain the operating rights under a Petition for Exemption.

There are compelling public interests for this Board to consider when reviewing the Petition for Exemption. Submitted with this reply as Exhibit "B" is a supplemental letter dated July 3, 2018 from the Mayor of Passaic updating the progress of the Passaic's redevelopment plans for the subject property, as well as the recent resolutions by the governing body of the City of Passaic designating the subject property as an "area in need for redevelopment" and designating PSP as the redeveloper for the property. Exhibits "C" and "D". The STB should take

recognition of the strong public support to redevelop the subject property, including support from representatives of the City of Passaic, the Passaic Redevelopment Agency, the county, the state legislature, the state senator and New Jersey's congressman. As explained in Mayor Hector Lara's recent July 3, 2018 supplemental letter (submitted with this reply), the redevelopment of the PSP property is critical to the overall redevelopment process in Passaic, which is one of the lowest per capita incomes in the State of New Jersey. Mayor Lora explains the redevelopment of the PSP property will be the catalyst for redevelopment by other redevelopers, particularly a neighboring project which could inject \$50+ million into the community. Mayor Lora believes that the redevelopment of the subject property will provide "substantial long term benefits to our City and its residents" and also "immediately improve the health, safety and welfare of the community".

Additionally, enclosed as Exhibit "E" is a copy of the letter dated, June 22, 2018 from the City Manager of the City of Garfield in support of the PSP petition for exemption. The former railroad tracks run through the City of Garfield which is located in Bergen County, New Jersey. He points out the STB's approval of the PSP petition will make possible the conversion of the underutilized former railroad bridge into a pedestrian walkway, linking the City of Garfield Riverwalk with the proposed redevelopment of the city park system in the City of Passaic, a real public benefit serving two communities and two counties in New Jersey.

CONCLUSION

For the foregoing reasons, PSP respectfully requests that the Board deny NYGL's motion to supplement the Petition to Reject. The extenuating circumstances surrounding this application make it unique and suitable to proceed under the expedited exemption, with the objective to abandon the rail service shortly after obtaining the right to operate the line. This way, the PSP

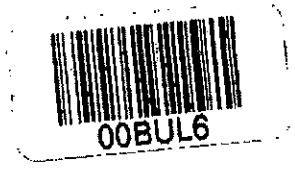
plans to redevelop the Property consistent with the Passaic Redevelopment Plan may proceed expeditiously, servicing the general public interest, without harming the shipping community.

Respectfully Submitted,

Dated: July 10, 2018.

By: s/John K. Fiorilla
John K. Fiorilla, Esq.
Capehart & Scatchard, PA
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Attorney for Petitioner,
Passaic Street Properties, LLC
Passaic Street Properties, LLC

*for New York & Greenwood Lake Railway
POB 106
Glen Ridge, NJ 07028*



THIS DEED, made the 14th day of November, in the year of our Lord One Thousand Nine Hundred and Ninety-seven (1997),

BETWEEN CONSOLIDATED RAIL CORPORATION, a Corporation of the Commonwealth of Pennsylvania, having an office at Two Commerce Square, 2001 Market Street, Philadelphia, Pennsylvania, 19101-1419, hereinafter referred to as the Grantor, and NEW YORK AND GREENWOOD LAKE RAILWAY, a Corporation of the State of New Jersey, having a mailing address of 46 High Street, P.O. Box 106, Glen Ridge, New Jersey 07028, hereinafter referred to as the Grantee.

KAREN BROWN
CLERK
PASSAIC COUNTY
New Jersey

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NJ PRESERVATION \$105.00
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RECORDER OF DEEDS
TOTAL PAID \$230.00

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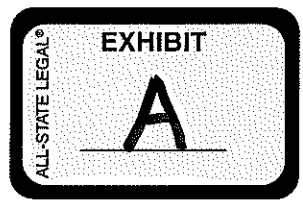
TAX REFERENCE:

Passaic County, New Jersey
Block 1031, Lots 1 and 30
Block 1001.B
Block 1054.A, Lot 1

Bergen County, New Jersey
Block 220, Lot 1

THIS INSTRUMENT PREPARED BY:

Nancy T.S. Reynolds
Nancy B. Reynolds
Consolidated Rail Corporation
19-B, Two Commerce Square
2001 Market Street
Philadelphia, PA 19101-1419



WITNESSETH, that the said Grantor, for and in consideration of the sum of ONE DOLLAR (\$1.00) lawful money of the United States of America, unto it well and truly paid by the said Grantee, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, Grantor does by these presents, remise, release and forever quitclaim unto the said Grantee, the successors and assigns of the said Grantee, all right, title and interest of the said Grantor of, in and to the following described Premises:

ALL THAT CERTAIN property of the Grantor, together with the improvements and appurtenances thereon, being all of Grantor's line of railroad known as the Dundee Spur and which property is situated in the Counties of Bergen and Passaic in the State of New Jersey, generally described in Exhibit "A" and generally indicated by "PS" on Grantor's Case Plan No. 71862, sheets 1 through 5, dated January 23, 1996 and revised to February 1, 1996, which are attached hereto in Exhibit "B", hereinafter referred to as "Premises".

EXCEPTING AND RESERVING, thereout and therefrom and unto the said Grantor, a permanent, perpetual, exclusive, assignable and unrestricted sub-surface and surface easement for existing and future fiber optic cables, telecommunication lines, including but not limited to metallic cables, PCS antennas and all their appurtenances, collectively hereinafter referred to as "Facilities", and for all the rights and privileges to lay, erect, construct, install, use, operate, maintain, repair, renew, replace and remove said Facilities, within, along, below, through and across the limits of the entire Premises; together with the unobstructed right of ingress and egress on, over, across and through the Premises for the exercise of the aforesaid rights; and further together with such surface easements necessary for the appurtenances of said Facilities; and further

THAT GRANTEE, in order to protect the depth of any Facilities that may now or in the future be installed within the Premises, Grantee shall first obtain the written approval of Grantor's Engineering Department or its successor, prior to land regrading, removal or recontouring of ballast, or any removal or contouring of any other soil or fill material on the Premises, such written approval shall not be unreasonably withheld.

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

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

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

or arise from the lack or failure to maintain any such fence or similar structure.

(2) No right or means of ingress, egress or passageway to or from the Premises is hereby granted, expressly or by implication, and Grantor shall not be liable or obliged to provide or obtain for Grantee any such means of ingress, egress or passageway.

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

(4) Grantee by the acceptance of this instrument, does hereby accept all existing and prospective responsibility for removal, repair and/or restoration costs for any and all railroad bridges, grade crossings and tracks located in, on, crossing or traversing any open or unopen public streets, thoroughfare or way and their appurtenances that may be located on, over or under the Premises; and Grantee further covenants and agrees that it will also assume any obligation and/or responsibility as may have been or may hereafter be imposed on Grantor by any Public Utility Commission or any other governmental agency having jurisdiction for any and all bridge structures, grade crossings and tracks in, on, traversing or crossing any street and their appurtenances, including but not limited to the removal, repairing or restoration of same in accordance with the requirements of said Commission or other governmental agency; and Grantee further agrees to indemnify, defend and hold Grantor harmless against all costs, penalties, expenses, obligations, responsibility and requirements associated with said bridge structures, grade crossings and tracks and their appurtenances.

(5) Grantor shall not be liable or obligated to provide for or supply directly or indirectly, for money or otherwise, any type of utility service to Grantee, even if the Premises are supplied utility service or services from or through Grantor owned or Grantor retained utility service facilities at the time said Premises are conveyed to Grantee; and that if Grantor at its sole discretion elects to provide any utility service

or services for money or otherwise to said Premises during the period during which Grantee is arranging at Grantee's own expense for provision of utility service or services direct from public utilities, Grantee shall have no continuing right to use such service or expectation that Grantor must continue to provide it. It is further understood that Grantee's use of any utilities that are supplied through Grantor's utilities or billed to Grantor by any public utility for Grantee's use shall be at the sole cost and expense of Grantee and if Grantee fails to relocate or arrange for a separation of utility services, Grantor may arrange for a separation of the utility services at Grantee's sole cost and expense.

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

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

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

IN WITNESS WHEREOF, the Grantor has caused this Indenture

to be signed in its name and behalf by its Director-Asset Utilization duly authorized thereunto and has caused its corporate seal to be hereunto affixed and attested by its Assistant Secretary, the day and year first above written.

SEALED and
DELIVERED in the
presence of us:

CONSOLIDATED RAIL CORPORATION
BY:

Nancy T. Reynolds
NANCY B. REYNOLDS

James W. Hartman, Jr.
James W. Hartman, Jr.,
Director-Asset Utilization

ATTEST:

Nancy T. Reynolds
NANCY B. REYNOLDS

Wilberta C. Jackson
Assistant Secretary
WILBERTA C. JACKSON

COMMONWEALTH OF PENNSYLVANIA)
: SS
COUNTY OF PHILADELPHIA)

BE IT REMEMBERED, that on this *13th* day of *November* in the year One Thousand Nine Hundred and Ninety-seven (1997), before me, the subscriber, a Notary Public for the Commonwealth and County aforesaid, personally appeared James W. Hartman, Jr., Director-Asset Utilization of CONSOLIDATED RAIL CORPORATION, the corporate Grantor named in the within Instrument, who I am satisfied is the person who has signed the within Instrument on behalf of said Corporation; and I having first made known to him the contents thereof, he did acknowledge that he signed, sealed and delivered the same as such officer aforesaid; that the foregoing Instrument is the voluntary act and deed of said Corporation, made by virtue of authority from its Board of Directors; and that the full and actual consideration paid or to be paid for the transfer of title to realty evidenced by the within Instrument as such consideration is defined in P.L. 1968, C. 49, Sec. 1(c), is One Dollar (\$1.00).

Kim L. Sands

Notary Public

:nls

Notarial Seal
Kim L. Sands, Notary Public
Philadelphia, Philadelphia County
My Commission Expires April 30, 2001

CASE NO. 71862

DEED TO

NEW YORK AND GREENWOOD LAKE RAILWAY

EXHIBIT "A"

Bergen County, New Jersey

Dundee Spur, Line Code 6199

ALL THAT CERTAIN property of the Grantor, being a portion of the line of railroad known as the Dundee Branch (a.k.a. the Dundee Spur), and identified as Line Code 6199 in the Recorder's Office of Bergen County, New Jersey in Deed Book Volume 6949 at page 198, situate in the Borough of Garfield, County of Bergen and State of New Jersey, and being further described as follows:

BEGINNING at Railroad Station 610+66 of said Dundee Spur, at approximately Railroad Mile Post 0.00, being a point of connection to the New Jersey Transit Corporation's Bergen County Line (Line Code 6102), as indicated on sheet 1 of 5 of Exhibit "B"; thence extending in a general southwesterly direction in and along the bed of Monroe Street, to approximately Railroad Mile Post 0.39, being the County Line, the County of Bergen on the east and the County of Passaic on the west, as indicated on sheet 2 of 5 of Exhibit "B".

THIS EXHIBIT "A" CONTAINS 4 PAGES, OF WHICH THIS IS
PAGE 1 OF 4.

BEING a part or portion of the same premises which Thomas F. Patton and Ralph S. Tyler, Jr., as Trustees of the Property of Erie Lackawanna Railway Company, Debtor, by Conveyance Document No. EL-CRC-RP-3, dated March 31, 1976 and recorded on October 12, 1978 in the Office of the New Jersey Secretary of State and also on August 30, 1985 in the Recorder's Office of Bergen County, New Jersey, in Deed Book Volume 6949 at page 186&c., granted and conveyed unto Consolidated Rail Corporation.

NOT CERTIFIED COPY

THIS EXHIBIT "A" CONTAINS 4 PAGES, OF WHICH THIS IS PAGE 2 OF 4.

CASE NO. 71862

DEED TO

NEW YORK AND GREENWOOD LAKE RAILWAY

EXHIBIT "A"

Passaic County, New Jersey

Dundee Spur, Line Code 6199

ALL THAT CERTAIN property of the Grantor, being a portion of the line of railroad known as the Dundee Branch (a.k.a. the Dundee Spur), and identified as Line Code 6199 in the Office of the Secretary of State for the State of New Jersey, situate in the City of Passaic, County of Passaic and State of New Jersey, and being further described as follows:

EXTENDING from the County Line, the County of Bergen on the east and the County of Passaic on the west, at approximately Railroad Mile Post 0.39, as indicated on sheet 2 of 5 of Exhibit "B", in a general southerly direction; thence curving in a southwesterly direction; thence extending in a general westerly direction parallel to and southerly of South Street, as indicated on sheets 3 and 4 of 5; thence curving to the northwest and extending in a general northerly direction to Railroad Station 702+89, at approximately Railroad Mile Post 1.75, being the northerly line of Monroe Street in the City of Passaic, the place of ENDING, as indicated on sheet 5 of 5 of Exhibit "B".

THIS EXHIBIT "A" CONTAINS 4 PAGES, OF WHICH THIS IS PAGE 3 OF 4.

BEING a part or portion of the same premises which Thomas F. Patton and Ralph S. Tyler, Jr., as Trustees of the Property of Erie Lackawanna Railway Company, Debtor, by Conveyance Document No. EL-CRC-RP-7, dated March 31, 1976 and recorded on October 12, 1978 in the Office of the New Jersey Secretary of State, granted and conveyed unto Consolidated Rail Corporation.

NOT CERTIFIED COPY

THIS EXHIBIT "A" CONTAINS 4 PAGES, OF WHICH THIS IS
PAGE 4 OF 4.

CASE NO. 71862

DEED TO

NEW YORK AND GREENWOOD LAKE RAILWAY

EXHIBIT "B"

MAP ADDENDUM

THIS EXHIBIT "B" CONTAINS 5 MAPS.

CONNINGDALE AVE
JAMBRIDGE AVE
BERGEN ST.
PALISADE AVE

ST
MATCH MARK SHEET 2 OF 5

CASE NO. 71862
SHEET 1 OF 5
V.B.N.J. (8307) / 1
L.C. 6199

PROPERTY TO BE CONVEYED
BY
CONSOLIDATED RAIL CORPORATION
TO
NEW YORK AND GREENWOOD LAKE RAILWAY

BEGIN M.P. 0.00
STA. 610+66

Date: January 23, 1996
REVISED FEBRUARY 1, 1996
(SHEET 3 OF 5)

INSERT
COPY

VAL. SEC. R.H.1
ERIE R.R.

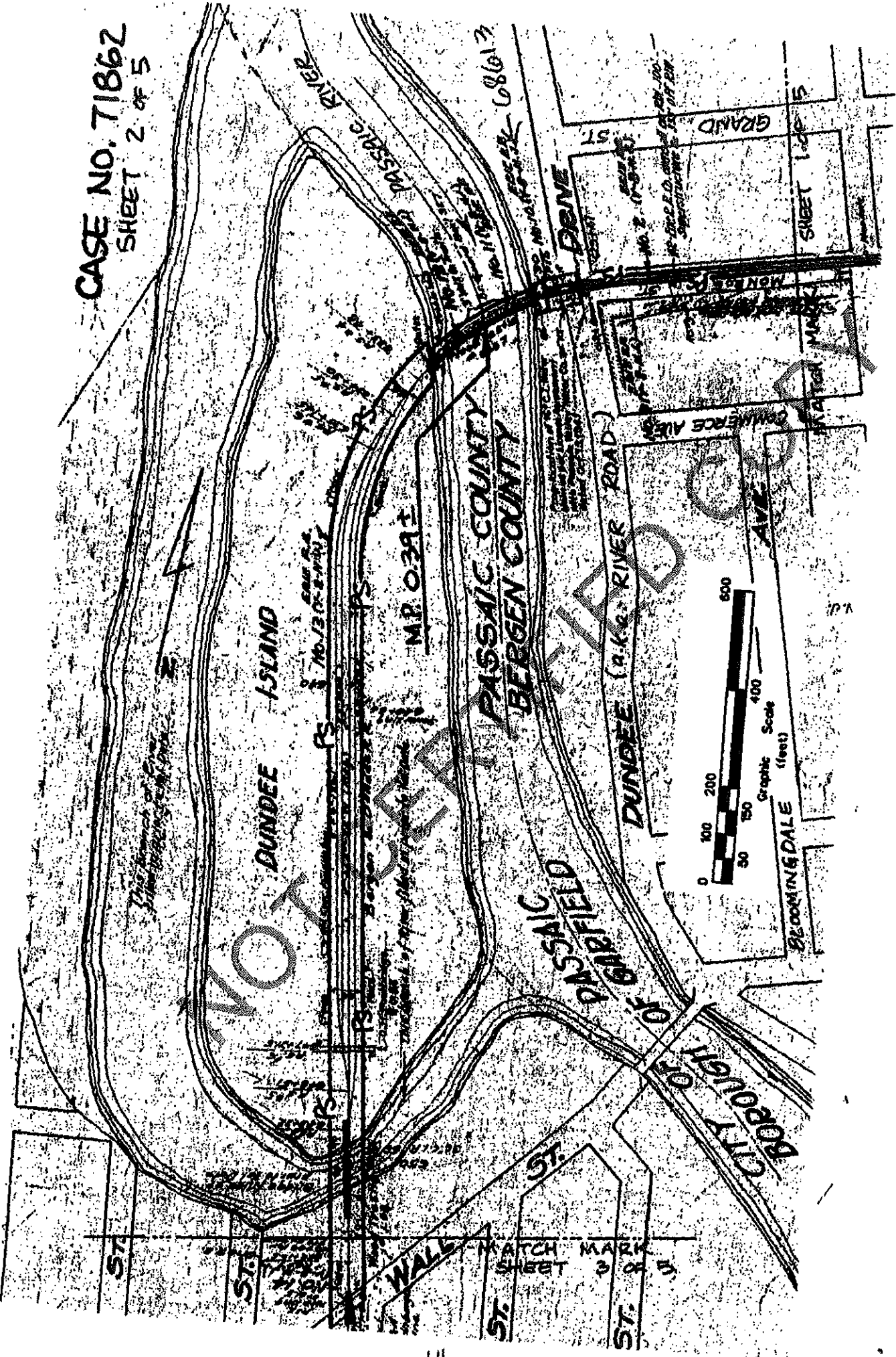
No. 50

BOROUGH OF GARFIELD
BERGEN COUNTY, NEW JERSEY



1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

CASE NO. 71862
SHEET 2 OF 5



CASE NO. 7186Z

SHEET 3 OF 5

REVISED 2/196

SEE SHEET 4 OF 5
FOR DETAIL
OF THIS AREA

PASSAIC RIVER

SOUTH ST.

FIRST

SECOND

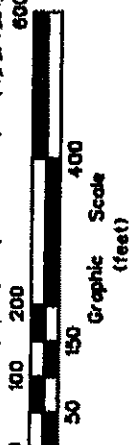
THIRD

ST.

FIFTH

SEVENTH

MATCH MARK
SHEET 2 OF 5



Wire Xing 679+40 A.S.E. 100
678+00 A.S.E. 100
670+00 A.S.E. 100
680+15 A.S.E. 100
680+25 A.S.E. 100

24" Reinf. Conc. Sanitary Sewer
Sewer of S. of
MARK SHEET 5 OF 5

1037985-End Vol Sect. 9111 (N.Y.S.D.N.)
Limit as of 8-30-18

W.H. Henhouse
Manufacturing Co.

U.S. RUBBER CO.

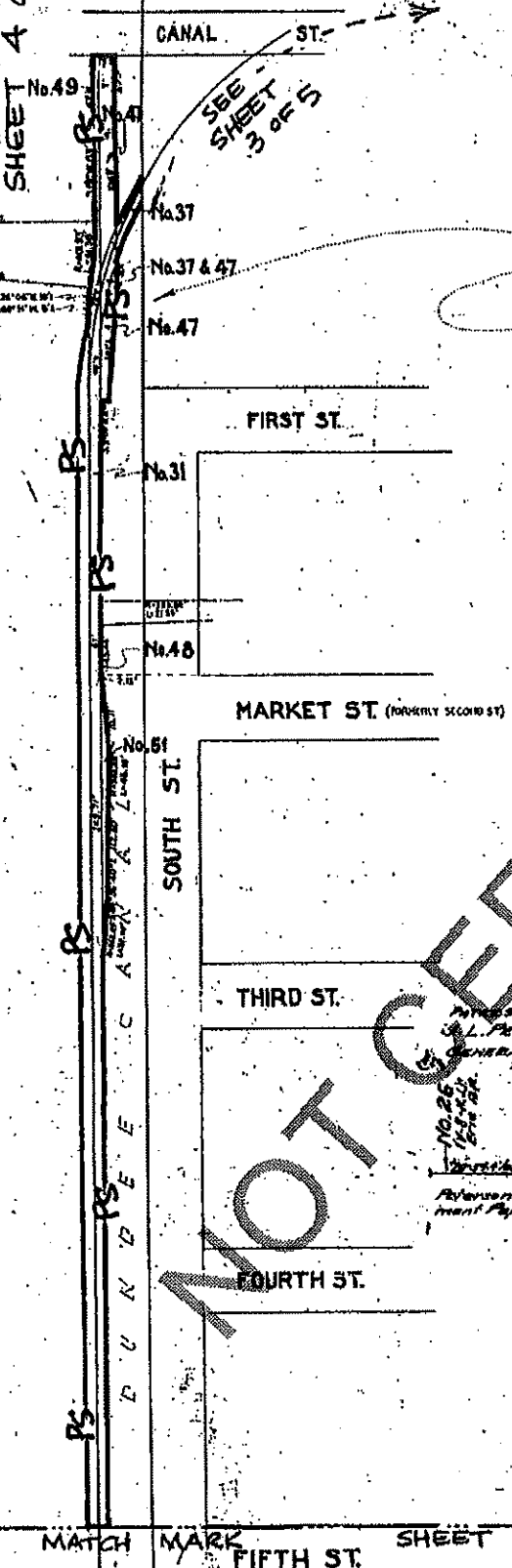
U.S. RUBBER CO.

WOOD TRAP

NO. 3000

CITY OF PASSAIC
PASSAIC COUNTY
N.J.

CASE NO. 71862
SHEET 4 OF 5



71862

DEED

CONSOLIDATED RAIL CORPORATION

-10-

NEW YORK AND GREENWOOD LAKE RAILWAY

Land known as the Dundee Spur and
situate in the Counties of Bergen and
Passaic, State of New Jersey.

MUST SUBMIT IN DUPLICATE

STATE OF NEW JERSEY

AFFIDAVIT OF CONSIDERATION FOR USE BY SELLER

(Chapter 48, P.L. 1988, as amended through Chapter 33, P.L. 2006) (N.J.S.A. 48:16-5 et seq.)

BEFORE COMPLETING THIS AFFIDAVIT, PLEASE READ THE INSTRUCTIONS ON THE REVERSE SIDE OF THIS FORM.

STATE OF NEW JERSEY

COUNTY

Passaic

SS. County Municipal Code

MUNICIPALITY OF PROPERTY LOCATION

Passaic

FOR RECORDER'S USE ONLY

Consideration \$ _____
 RTF paid by seller \$ _____
 Date _____ By _____

*Use symbol "C" to indicate that fee is exclusively for county use.

(1) PARTY OR LEGAL REPRESENTATIVE (See Instructions #3 and #4 on reverse side)

Deponent, Consolidated Rail Corporation

being duly sworn according to law upon his/her oath,

deposes and says that he/she is the Grantor in a deed dated Nov. 14, 1997 transferringBl. 1031, Lts. 1 and 30; Bl. 1001.B; Bl. 1054.A, Lt. 1

real property identified as Block number _____ Lot number _____ located at

Dundee Spur, Line Code 6199, Case No. 71862 City of Passaic

(Street Address, Town) and annexed thereto.

(2) CONSIDERATION \$ 1.00

(See Instructions #1 and #6 on reverse side)

(3) Property transferred is Class 4A 4B 4C (circle one). If property transferred is Class 4A, calculation in Section 3A below is required.

Railroad Line(3A) REQUIRED CALCULATION OF EQUALIZED VALUATION FOR ALL CLASS 4A COMMERCIAL PROPERTY TRANSACTIONS:
(See Instructions #5A and #7 on reverse side)

Total Assessed Valuation + Director's Ratio = Equalized Assessed Valuation

\$ _____ + _____ % = \$ _____

If Director's Ratio is less than 100%, the equalized valuation will be an amount greater than the assessed value. If Director's Ratio is equal to or in excess of 100%, the assessed value will be equal to the equalized valuation.

(4) FULL EXEMPTION FROM FEE (See Instruction #8 on reverse side)

Deponent states that this deed transaction is fully exempt from the Realty Transfer Fee imposed by C. 49, P.L. 1968, as amended through C. 68, P.L. 2004, for the following reason(s). More reference to exemption symbol is inappropriate. Explain in detail.

Deed is for consideration of less than \$100.(5) PARTIAL EXEMPTION FROM FEE (See Instruction #9 on reverse side) Not applicable.

NOTE: All boxes below apply to grantor(s) only. ALL BOXES IN APPROPRIATE CATEGORY MUST BE CHECKED. Failure to do so will void claim for partial exemption. Deponent claims that this deed transaction is exempt from State portions of the Basic Fee, Supplemental Fee, and General Purpose Fee, as applicable, imposed by C. 178, P.L. 1978; C. 113, P.L. 2004, and C. 68, P.L. 2004 for the following reason(s):

- A. SENIOR CITIZEN Grantor(s) ☐ 62 years of age or over? (See Instruction #9 on reverse side for A or B)
 B. { BLIND PERSON Grantor(s) ☐ legally blind or
 DISABLED PERSON Grantor(s) ☐ permanently and totally disabled ☐ Receiving disability payments ☐ Not gainfully employed*

Senior citizens, blind persons, or disabled persons must also meet all of the following criteria:

- ☐ Owned and occupied by grantor(s) at time of sale. ☐ Resident of State of New Jersey.
☐ One or two-family residential premises. ☐ Owners as joint tenants must all qualify.

*IN THE CASE OF HUSBAND AND WIFE OR CIVIL UNION PARTNERS, ONLY ONE GRANTOR NEEDS TO QUALIFY IF TENANTS BY THE ENTIRETY.

C. LOW AND MODERATE INCOME HOUSING (See Instruction #9 on reverse side)

- ☐ Affordable according to HUD standards. ☐ Reserved for occupancy.
☐ Meets income requirements of region. ☐ Subject to resale controls.

(6) NEW CONSTRUCTION (See Instructions #2, #10 and #12 on reverse side)

- ☐ Entirely new improvement. ☐ Not previously occupied.
☐ Not previously used for any purpose. ☐ "NEW CONSTRUCTION" printed clearly at the top of the first page of the deed.

(7) Deponent makes this Affidavit to induce county clerk or register of deeds to record the deed and accept the fee submitted herewith in accordance with the provisions of Chapter 48, P.L. 1988, as amended through Chapter 33, P.L. 2006.

Subscribed and sworn to before me this _____ day of _____, 2007.

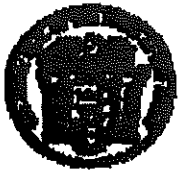
Kathleen M. Pitt
 Notary Public
 State of New Jersey
 My Commission Expires July 20, 2010

Last 3 digits in Grantor's Social Security Number _____ Name/Company of Settlement Officer _____

TRENTON, NJ 08646-4281

ATTENTION: REALTY TRANSFER FEE UNIT

The Director of the Division of Taxation in the Department of the Treasury has prescribed this form as required by law, and may not be altered or amended without prior approval of the Director. For information on the Realty Transfer Fee or to print a copy of this Affidavit, visit the Division of Taxation website at: www.state.nj.us/treasury/taxation/ptfeccatix.htm



State of New Jersey
SELLER'S RESIDENCY CERTIFICATION/EXEMPTION
(C.55, P.L. 2004)

GIT/REP-3
(2-07)

(Please Print or Type)

SELLER INFORMATION (Last Property Transferred)

Name(s)

Consolidated Rail Corporation

Current Resident Address:

2001 Market Street, Philadelphia, PA 19103

Street:

City, Town, Post Office

State

Zip Code

PROPERTY INFORMATION (Last Property Transferred)

Block(s)

Lot(s)

Qualifier

Street Address:

Dundee Spur, Line Code 6199, Case No. 71862

City of Passaic

County of Passaic, NJ

City, Town, Post Office

100%

\$1.00

State

Zip Code

Nov. 14, 1997

Seller's Percentage of Ownership

Consideration

Closing Date

SELLER ASSURANCES (Check the Applicable Box) (Boxes 2 through 3 apply to NJN residents)

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

SELLER'S DECLARATION

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

7/11/07

Date



Signature

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

Date

Signature

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

END OF DOCUMENT



CITY OF PASSAIC

330 PASSAIC STREET
PASSAIC, NEW JERSEY 07055

OFFICE OF THE MAYOR
HECTOR C. LORA

TELEPHONE (973) 365-5510
FAX NUMBER (973) 472-2639
hlora@cityofpassaicnj.gov

July 3, 2018

Surface Transportation Board
395 E Street SW
Washington, DC 20423-0001

RE: Applicant: Passaic Street Properties, LLC
Acquisition and Operation Exemption
Property: 99-111 Passaic Street, Passaic, NJ 07055

Dear Surface Transportation Board:

Please accept this letter as a supplement to my May 22, 2018 letter in support of the petition filed by PSP with the STB, to return the above mentioned property to a productive use in the City of Passaic. Specifically, I want to address the urgency in returning the PSP property to a productive use in the City of Passaic (the "City").

As noted in my earlier letter, the City set out a number of milestones to allow for the productive use of the PSP property. These included the recommendation of the PSP property as an area in need of redevelopment by the Passaic City Planning Board on June 6, 2018; the designation of the PSP property as an area in need of redevelopment by the Passaic City Council on June 19, 2018; and the designation of PSP as the redeveloper for the property by the Passaic Redevelopment Agency on June 21, 2018. All of these measures have been taken. The swift action of these municipal agencies underscores the resolve and urgency the City has in moving this project forward.

That urgency has several very specific time sensitive aspects. The first is the \$10 million improvement of Dundee Island Park. The Trust for Public Land, a nationally-renown entity in planning parks, is working with the City and preparing plans for improvements to the City's parks. If PSP's petition is granted, PSP has pledged to transfer to the City a strip of land (former railroad tracks) that bifurcates the City's parks. Those professionals cannot move forward in their planning for the improvements to the City's park until the STB has acted on the PSP petition, preferably on an expedited basis. As the Mayor noted, the City's parkland is essential in a community as densely populated as Passaic. The pledge by PSP to work cooperatively with the City to make this strip of land part of the park is vital.

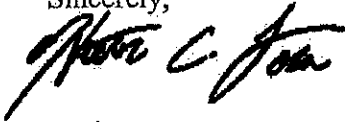


The current state of the PSP property, as noted in my May 22, 2018 letter is "substandard, unsafe, unsanitary dilapidated and obsolescent, as to create an unwholesome working condition and an unwholesome condition for the community." The approval of PSP's petition will have a significant positive impact on our community. The redevelopment of the PSP property will directly impact the decisions of other potential redevelopers of other adjacent projects to invest in the area. For example, one project involves the adaptive reuse of a former industrial site and its repurposing as a residential building of 300 apartment units. The designated redeveloper of that project, Capodagli Properties Company, has requested and received permission to move forward with that project through an amendment to the redevelopment plan. However, that redeveloper has hesitated in completing the purchase of that site due the unwholesome condition of the nearby PSP property. The uncertainty of the PSP property can put this \$50+ million project in jeopardy.

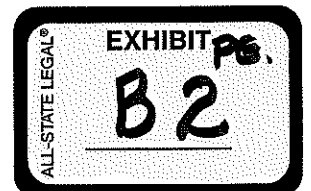
In closing, I want to reiterate the other reasons for the strong support the City has for redevelopment of the PSP property. As a City with one of the lowest per capita incomes in the State of New Jersey, it is essential that we do all we can to promote affordable housing, attract jobs, and increase the tax base. All of these objectives are met by the project being undertaken by PSP and will provide substantial long term benefits to our City and its residents. The project envisioned by the PSP will also immediately improve the health, safety and welfare of the community, by transforming a substandard, unsafe, unsanitary dilapidated and obsolescent site, into a wholesome and productive use.

For all of these reasons, the City of Passaic renews its strong supports for the petition filed by PSP before the STB, as noted in my earlier letter. The City wholeheartedly encourages the Board to act favorably on their request.

Sincerely,



Hector C. Lora
Mayor



CITY OF PASSAIC
RESOLUTION # 18-06-197

2018 JUN 13

RESOLUTION ACCEPTING THE RECOMMENDATION OF THE CITY OF PASSAIC PLANNING BOARD THAT BLOCK 5000.02, LOT 1, (99-111 PASSAIC STREET), AS AN AREA IN NEED OF REDEVELOPMENT; DESIGNATING THE SUBJECT PROPERTY AS AN AREA IN NEED OF REDEVELOPMENT; AND, DIRECTING THE PLANNING BOARD TO PREPARE AND ADOPT A REDEVELOPMENT PLAN

WHEREAS, the City Council of the City of Passaic adopted Resolution authorizing and directing the Planning Board of the City of Passaic (the "Planning Board") to undertake a preliminary investigation as to whether the property identified on the Official Tax Map of the City of Passaic as Block 5000.02, Lot 1, and located at 99-111 Passaic Street, Passaic, New Jersey, (collectively, the "Study Area") should be delineated as an area in need of redevelopment pursuant to the New Jersey Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.; and

WHEREAS, the Planning Board held a public hearing on June 13, 2018, on notice as required pursuant to N.J.S.A. 40A:12A-6; and

WHEREAS, by Resolution adopted, a copy of which is annexed hereto (the "Resolution"), the Planning Board has recommended to the City Council that the Study Area be designated as an area in need of redevelopment by the City Council; and

WHEREAS, as set forth in the Resolution adopted, the Planning Board's recommendation was based upon its findings that the Study Area contains the following conditions as set forth in N.J.S.A. 40A:12A-5:

WHEREAS, the City Council believes that the redevelopment of the Study Area is in the best interest of the City of Passaic, is in furtherance of the health, safety, morals and welfare of its residents and in accordance with the public purposes and provisions of the Local Redevelopment and Housing Law and all other applicable state and local law.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Passaic that the uncontroverted findings of the Planning Board as set forth in the attached Resolution are hereby adopted; and

BE IT FURTHER RESOLVED that the property identified on the Official Tax Map of the City of Passaic as Block 5000.02, Lot 1, and located at 99-111 Passaic Street, Passaic, New Jersey, be and the same are hereby designated as an area in need of redevelopment pursuant to N.J.S.A. 40A:12A-5 and

BE IT FURTHER RESOLVED that the Planning Board is hereby authorized and directed to cause a redevelopment plan to be prepared for the Study Area and present same to the City Council pursuant to N.J.S.A. 40A:12A-7f; and

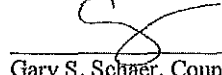
BE IT FURTHER RESOLVED that a true copy of this Resolution be forwarded to the Planning Board of the City of Passaic and the County of Passaic; and

BE IT FURTHER RESOLVED that a true copy of this Resolution be forwarded to the Commissioner of the New Jersey Department of Community Affairs for review.

INTRODUCED BY COUNCILPERSON: Zaida Polanco

SECONDED BY COUNCILPERSON: Jose Garcia

Record of Council Vote on Final Passage	Aye	Nay	Abstain	Absent
GARCIA, J.	x			
LOVE, T	x			
MELO, T	x			
MUNK, C.	x			
POLANCO, Z.	x			
SCHAER, G.	x			
SCHWARTZ, D.	x			


Gary S. Schaer, Council President


Amada D. Curling, City Clerk

DATED: June 19, 2018

{00720686}

ALL-STATE LEGAL®

EXHIBIT

C

fg.
1

RESOLUTION OF MEMORIALIZATION
CITY OF PASSAIC PLANNING BOARD
PASSAIC COUNTY, NEW JERSEY

RECOMMENDATION DETERMINING THAT BLOCK 5000, LOT 1; BLOCK 5000.01, LOT 1 AND BLOCK 5000.02, LOT 1 IS AN AREA IN NEED OF REDEVELOPMENT, AND APPROVING THE PRELIMINARY INVESTIGATION WITH A RECOMMENDATION TO THE CITY COUNCIL TO PROCEED WITH THE DETERMINATION OF THE NEED OF REDEVELOPMENT AND TO AUTHORIZE THE REDEVELOPMENT PLAN PREPARATION AND ADOPTION

Approved: June 6, 2018
Memorialized: June 6, 2018

WHEREAS, by City Council Resolution adopted on April 10, 2018, the preparation of a Preliminary Investigation Study was authorized regarding the determination of an area of land in need of redevelopment identified on the City of Passaic Tax Maps as Block 5000, Lot 1; Block 5000.01, Lot 1 and Block 5000.02, Lot 1, and also known as 99-111 Passaic Street; and

WHEREAS, the Planning Board was directed to commence, with the assistance of a licensed professional planner, in the preparation of a Preliminary Investigation Report of said designated area. Block 5000.02, Lot 1 consists of approximately 2 acres. Block 5000.01, Lot 1 consists of .004 acres and is triangular in shape at the intersection of Passaic Street and Wall Street. It functions as a pedestrian island. Block 5000, Lot 1 is the New York & Greenwood Lake Railroad property consisting of 3.1 acres; and

WHEREAS, said Preliminary Investigation Report was prepared by David R. Troast, A.I.C.P., P.P., L.L.A. and was set forth in a Report dated May 26, 2018; and

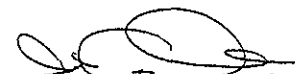
WHEREAS, pursuant to Statute, namely, N.J.S.A. 40A:12A-1, et. seq., the Planning Board conducted a public hearing at a meeting held on June 6, 2018 in order to hear comments from the public and anyone else who might be affected by future action based upon the Preliminary Investigation Report; and

WHEREAS, at its meeting of June 6, 2018, the Planning Board reviewed in detail the Preliminary Investigation Report prepared by David R. Troast, dated May 26, 2018, comments from Mr. Troast, and comments from all interested parties with regard to the proposed designation; and

WHEREAS, at the conclusion of the public hearing, and after a review of the evidence and the contents of the Preliminary Investigation Report dated May 26, 2018 the Board concluded that there was sufficient credible evidence to support findings that satisfy the criteria set forth in the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-5 et. seq. for designating the Study Area, Block 5000, Lot 1; Block 5000.01, Lot 1 and Block 5000.02, Lot 1 as an Area In Need Of Redevelopment, in that said designation is necessary for the effective rehabilitation of the Study Area; and

WHEREAS, given this conclusion the Planning Board refers this matter to the City Council for all appropriate action.

DATED: June 6, 2018


Maritza Colon-Montañez, Chairman

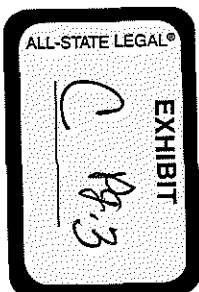

Miriam R. Perez, Secretary



PREPARED BY:

Louis P. Rago, Esq.
25 Lindsley Drive, Suite 200
Morristown, New Jersey 07960
Attorney for the Planning Board
of the City of Passaic, New Jersey

Name	For	Against	Abstain
Councilman Daniel Schwartz	✓		
Commissioner Francine Wise			
Commissioner Kenneth A. Simpson	✓		
Commissioner Maritza Colon-Montañez	✓		
Commissioner Sim Facey			
Commissioner Edwin Perez	✓		
Commissioner Jessica Delacruz	✓		
Commissioner Marko Kopic	✓		
Commissioner Peter T. Rosario			



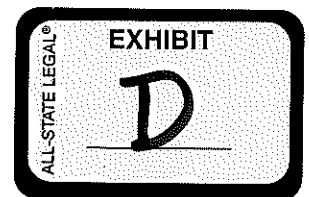
**PASSAIC REDEVELOPMENT AGENCY
RESOLUTION NUMBER 18-14**

**Resolution Designating Passaic Street Properties, LLC as the Redeveloper
for Property located at 99-111 Passaic Street, Passaic, New Jersey Block
1031, Lots 1 and 30, Block 1001.B, Block 1054A, Lot 1, Block 5000.01, Lot 1
and Block 5000.02, Lot 1 and Authorizing an Interim Costs Agreement**

WHEREAS, Passaic Street Properties, LLC (hereinafter referred to as the “Redeveloper”) is the owner of properties located at 99-111 Passaic Street, Block 1031, Lots 1 and 30, Block 1001.B, Block 1054A, Lot 1, Block 5000.01, Lot 1 and Block 5000.02, Lot 1 (hereinafter referred to as the “Property”), which is located within the boundaries of the City of Passaic (hereinafter referred to as the “City”) in an area that has been designated by the City as an area in need of redevelopment by City Council Resolution 18-06-197, which property is included in a duly adopted zoning plan known as the Redevelopment Plan for Property Designated as Block 1031, Lots 1 and 30, Block 1001.B, Block 1054A, Lot 1, Block 5000.01, Lot 1 and Block 5000.02, Lot 1 on the Official Tax Map of the City of Passaic, State of New Jersey (hereinafter referred to as the “Plan”); and,

WHEREAS, the Redeveloper submitted a redevelopment proposal on or about July 20, 2018 (hereinafter referred to as the “Proposal”) to the City of Passaic Redevelopment Agency (hereinafter referred to as the “Agency”) for the Property for uses in conformity with the Plan as amended; and,

WHEREAS, the Redeveloper proposes to construct a mixed use building that will likely include, but will not be limited to, one hundred twenty (120) residential units with commercial and retail use on the first floor (hereinafter referred to as the “Project”); and,



WHEREAS, a committee of the Agency's Board of Commissioners has reviewed the Proposal and found same to be generally consistent with the intent of and uses set forth in the Plan as amended; and,

WHEREAS, the Redeveloper shall comply with the Plan and/or shall apply to the Planning Board for all necessary variances, approvals, and/or permits as may be required under the Plan and/or or may seek an amendment of the Plan by request to the Agency and the City.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Passaic Redevelopment Agency that:

1. The above recitations are incorporated herein as if set forth at length; and,
2. Passaic Street Properties, LLC is hereby designated as the Redeveloper for the redevelopment of the Property; and,
3. This designation is expressly contingent upon amendment, if necessary, to the Plan and/or variances and approvals from the Planning Board; and,
4. This designation is expressly contingent upon the Redeveloper being responsible for and assuming all costs incurred by the Agency, including, but not limited to legal, appraisal, title, environmental, financial, engineering, etc.; and,
5. This designation is also expressly contingent upon the Redeveloper providing all funds for the acquisition, relocation, property maintenance of and demolition, if necessary, at the Property and construction of the proposed Project; and,
6. This designation is also based upon the Agency's previous due diligence into the Redeveloper, including the Redeveloper previously providing the Agency with a non-refundable Application fee of Fifteen Thousand Dollars (\$15,000.00) and the Redeveloper having previously provided to the Agency all of the necessary financial documentation necessary to perform a full

financial evaluation that the Redeveloper is financially qualified to undertake this Project to the satisfaction of the Agency and its professionals; and,

7. This designation is also expressly contingent upon payment by the Redeveloper to the Agency of an Escrow, under the terms of the Interim Costs Agreement, in the amount of Twenty Thousand Dollars (\$20,000.00), such escrow fee to be paid within thirty (30) calendar days of the execution of this Resolution; and,

8. This designation is also expressly contingent upon payment by the Redeveloper to the Agency of a one (1) time non-refundable Administrative fee of Thirty Thousand Dollars (\$30,000.00), Fifteen Thousand Dollars (\$15,000.00) to be paid within thirty (30) calendar days of the execution this Resolution and Fifteen Thousand Dollars (\$15,000.00) upon completion of the Project; and,

9. The Interim Costs Agreement between the Agency and the Redeveloper is approved for signature by the Agency, subject to the final approval of the Agency's General Counsel and Executive Director; and,

10. Once the Interim Costs Agreement is approved and payments are made by the Redeveloper as required hereunder, the parties will commence the negotiation of a redevelopment agreement, which is subject to review and approval by the Agency and its professionals; and,

11. The designation herein is for a period of ninety (90) calendar days, which period may be extended if necessary at the sole discretion of the Agency's Executive Director for an additional period of ninety (90) calendar days.

BE IT FURTHER RESOLVED that the Chairman, Vice Chairman and/or Secretary of the Agency are hereby authorized to execute any and all documents necessary to effectuate this

Resolution subject to review and approval of the Agency's General Counsel and Executive Director.

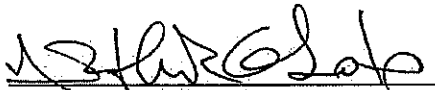
INTRODUCED BY: Chaim Munk

SECONDED BY: Angel Torres

	For	Against	Abstain	Absent
Chairman Arthur Soto	X			
Vice Chair Peter Cedenno-Castro				X
Commissioner Chaim Munk	X			
Commissioner Ruth Perez	X			
Commissioner David Spector				X
Commissioner Angel Torres	X			

Adopted on June 21, 2018

PASSAIC REDEVELOPMENT AGENCY


Arthur Soto, Chairman



THOMAS J. DUCH
CITY MANAGER

City of Garfield

111 OUTWATER LANE
GARFIELD, NEW JERSEY 07026-2694
www.garfieldnj.org



PHONE: (973) 340-2000
FAX: (973) 253-7965

June 22, 2018

Revised Letter Correcting Letter of June 14, 2018

Surface Transportation Board
395 E Street S.W.
Washington, DC 20423-0001

Re: New York and Greenwood Lake Railway
City of Passaic – Passaic County
City of Garfield – Bergen County

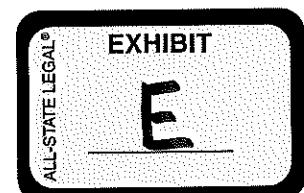
Dear Members of the Surface Transportation Board:

The long unused, underutilized New York and Greenwood Lake Railway Spur running through the City of Garfield into the City of Passaic was recently sold through an auction initiated by the Internal Revenue Service to Passaic Street Properties LLC. We have been approached by Counsel for Passaic Street Properties LLC and discussed the use of this former railroad siding going forward.

In the City of Garfield, the Dundee Spur of this railway comes off the Bergen County main line and travels down the middle of Monroe Street. It has long been an extraordinary safety hazard. A copy of an ordinance passed by the City of Garfield many years ago to govern railroad use is attached for your ready reference.

The railroad tracks in question are an imminent hazard by virtue of their location within the roadway traversed by motor vehicles. They create a hazard to all vehicles and members of the public who travel the roadway. We write to urge the decommissioning of the railroad which will allow the removal of the tracks and be a tremendous enhancement to public safety and well-being in the City of Garfield going forward.

The City of Garfield is continuing a Riverwalk on the Garfield side of the property on River Drive running between the Passaic Street Bridge and the Monroe Street Bridge. The decommissioning of this railroad will allow the former railroad bridge going into the City of Passaic to become part of a pedestrian walkway which would link the Garfield Riverwalk to the proposed development of a new park at Dundee Island and along the riverbank of the City of Passaic.



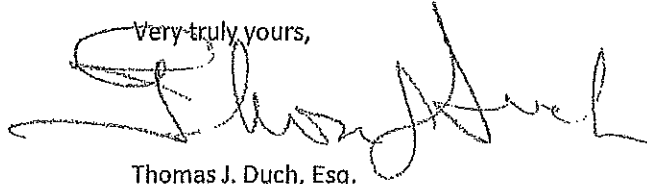
Surface Transportation Board

June 22, 2018

Page 2

I stand ready and willing to provide any and all details concerning the Garfield Riverwalk Project at any time.
Thank you in advance for your support in abandoning the use of the railroad siding.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Thomas J. Duch". The signature is fluid and cursive, with a large initial "T" and a long, sweeping underline.

Thomas J. Duch, Esq.
City Manager

TJD/p

cc: Mayor and Council
R. Fernandez, Administrator, City of Passaic
J. Pasternack, Esq.
All Parties of Record

Before the
Surface Transportation Board

FD - 36187

**PASSAIC STREET PROPERTIES, LLC
ACQUISITION OF NEW YORK & GREENWOOD LAKE RAILWAY, INC.
OPERATION EXEMPTION**

**CERTIFICATION OF SERVICE OF REPLY TO MOTION TO
SUPPLEMENT PETITION TO REJECT FILED BY NEW YORK &
GREENWOOD LAKE RAILWAY, INC. PURSUANT TO 49 U.S.C. § 10502(D)**

John K. Fiorilla, Esq. hereby certifies:

On July 10, 2018, I served a copy of the Reply to Motion herein upon the attorney for New York & Greenwood Lake Railway via Email: John.Heffner@clarkhillstrasburger.com and by regular mail to John D. Heffner, Esq., Clark Hill Strasburger, at 1025 Connecticut Avenue, N.W., Suite 717, Washington, D.C. 20036-4104.

s/ John K. Fiorilla
Capehart & Scatchard, P.A.
Attorneys for Passaic Street Properties, LLC
8000 Midlantic Drive – Suite 300S
P.O. Box 5016
Mt. Laurel, NJ 08054
Tel: 856-904-2054
Fax: 856-235-2786
jfiorilla@capehart.com

Before the
Surface Transportation Board

FD - 36187

**PASSAIC STREET PROPERTIES, LLC
ACQUISITION OF NEW YORK & GREENWOOD LAKE RAILWAY, INC.
OPERATION EXEMPTION**

**CERTIFICATION OF SERVICE OF REPLY TO MOTION TO
SUPPLEMENT PETITION TO REJECT FILED BY NEW YORK &
GREENWOOD LAKE RAILWAY, INC. PURSUANT TO 49 U.S.C. § 10502(D)**

John K. Fiorilla, Esq. hereby certifies:

On July 11, 2018, I served a copy of the Reply to Motion herein upon the attorney/City Manager for the City of Garfield via Email: tduch@garfieldnj.org and by regular mail to Thomas J. Duch, Esq., City Manager, City of Garfield, 111 Outwater Lane, Garfield, NJ 07026-2694.

s/ John K. Fiorilla
Capehart & Scatchard, P.A.
Attorneys for Passaic Street Properties, LLC
8000 Midlantic Drive – Suite 300S
P.O. Box 5016
Mt. Laurel, NJ 08054
Tel: 856-904-2054
Fax: 856-235-2786
jfiorilla@capehart.com