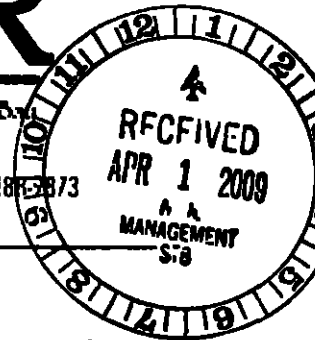




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Service Date.— March 31, 2009

Reply to Environmental Assessment
STB Docket No. AB-167 (Sub-No. 1189X)
Consolidated Rail Corporation Abandonment Exemption In Hudson
County, NJ
and related cases AB-55 (Sub-No. 686X) and AB-290 (Sub-No. 306X)

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NY/NJ Baykeeper requests that STB, in assessing the natural and historic value associated with the Harsimus Stem Embankment in Jersey City, undertake a full Environmental Impact Statement conducted by an independent consultant.

There is ample evidence on the Embankment site and history of wildlife usage of nearby green spaces to believe that threatened and endangered bird and wildlife species may be included in the existing array of wildlife species currently supported by the six acres of habitat provided by the Embankment.

Currently, STB seems to be basing decisions on only two sources, Conrail and incomplete natural resource websites, neither of which could be expected to provide the information that an EIS or even an unbiased EA would normally provide. A broader understanding and research of the area is required

Claims made by Conrail have been dismissive of essential facts about the site in general and the environmental assessment provided by Conrail is inherently biased and incomplete. As to the websites, any consultant or expert working in this part of New Jersey is aware that natural resource agency websites, such as NJDEP's listing of "threatened and endangered species," is near useless in many urban areas, including Jersey City, because

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field studies for these areas have not been undertaken (as they have in other areas of New Jersey). Similarly, the United States Fish and Wildlife Service provides broad information about the region, but has not had the staff to review many specific sites, particularly in the urban areas. So, citing these websites as a means of determining whether or not a threatened or endangered species exists in this area is of little practical value in determining what may or may not exist on the specific site. All these sites can accurately state is that, after not having gone to the location in question, they are or are not aware of any T& E species on that site. In fact, it is often an EIS, like the one requested here, that provides the field data for these agencies as to whether or not a T& E species may be using a particular site or in a particular area.

Furthermore, there are numerous examples of situations where direct field investigation in nearby areas has produced the identification of threatened and endangered species and other wildlife species that were previously unknown.

Not until work, and associated environmental studies, was done for the new Turnpike Exit 15X for the Allied Junction (Lautenberg) Train Station was it discovered that there was an entire colony of Black-crowned night herons residing on site. Threatened and endangered species discoveries have occurred repeatedly during site specific studies in the Hackensack Meadowlands nearby, where New Jersey Audubon and the New Jersey Meadowlands Commission documented many species, not otherwise formally known to exist there. The endangered Pied-billed Grebe was found to breed in Kingsland impoundment; Mill Creek, where the endangered Least Tern was found, Berry's Creek where the endangered Cooper's hawks, northern harriers, short-eared owls and threatened long-eared owls were found to spend significant time foraging.

A mile to the south of the Embankment is Liberty State Park. Here, endangered northern harriers and other birds of prey reside because of the availability of open space, rodents to feed upon and elevated structures/trees on which to perch. Liberty State Park, like Lincoln Park, the Hackensack Meadowlands and many smaller pocket parks and green parcels provide feeding, shelter and support sheltering numerous species of songbirds and the magnificent Monarch butterfly that travels thousands of miles from Mexico each year during spring migration. **Monarch butterflies and numerous songbird species have been documented as using the Harsimus Stem Embankment.** And, in fact, the United States Fish and Wildlife Service in its "Significant Habitats and Habitat Complexes of the New York Bight Watershed states that *"Perhaps the greatest ecological*

significance of the New-York-New Jersey Harbor is its regional and national importance to a great many migratory species .All of the migratory and resident species that are concentrated by the geography of the area are, as a consequence, further concentrated into the small amount of remaining and aquatic open space within the urban core. All remaining open space is thus critical to these species." These statements explain why such an extraordinary abundance and variety of bird species are found in the parks and places listed above, and why they might also be expected to be found on the Harsimus Stem Embankment where rail line disuse has provided favorable habitat conditions for wildlife species residing and migrating through this area along the Atlantic Flyway

With this additional information in mind, we again urge you to consider a full Environmental Impact Statement for the Harsimus Stem Embankment, Jersey City, New Jersey. Thank you for your consideration.

Sincerely,

Gregory A. Remaud
Deputy Director
NY/NJ Baykeeper

I CERTIFY THAT I served this filing on all Parties on the Service List for these cases, by regular U S mail


Signature


Date