

EI-18973



THE SCHANK LAW GROUP

MJSchank@yahoo.com

October 1, 2012

Victoria Rutson,
Chief, Office of Environmental Analysis
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re Docket # AB 167(Sub# 1162x)
Consolidated Rail Abandonment Exemption- Monroe County, New York

Dear Victoria:

I represent a Citizens group known as the Hojack's Heroes. We are interested in preserving The Hojack Swing Bridge which is under study here.

The Memorandum of Agreement should not be allowed to stand as is for the following reasons:

1. The MOA states in the second last paragraph of page one "...CSXT is the current owner of the swing bridge and seeks to fully consummate the Abandonment."
 - 1A. The CSXT has stated to our members that CSXT would be enthusiastically in favor of utilizing the bridge in a constructive manner, as opposed to abandonment.
2. The MOA states, in the last paragraph of page 1 , "....requiring the CSXT to remove all elements of the Swing Bridge due to the unreasonable hazard the Swing Bridge poses to vessels..."
 - 2A. The United States Coast Guard has the burden to show that the said Swing Bridge poses an unreasonable hazard to vessels in light of:

1595 Elmwood Ave. Suite A200, Rochester, New York 14620

phone: (585) 248-5162

fax: (585) 465-5010

a. The proposed NEW use of the Bridge as a tourist attraction including plans for a museum

offering educational programs, restaurant, gift shops, etc. showcasing the historic richness of The Bridge, and a needed link between two existing hiking trails. Both of these trails end abruptly at the entrances to the Swing Bridge under the current plan of bridge demolition.

b. The satisfaction of section 106 as discussed in the MOA.

c. Evidence regarding the unreasonable hazard to navigation has not been provided by the Coast Guard, nor any other source. The bridge has not been the source of any accidents for vessels in the river.

d. The proposed new uses for the bridge INCLUDE transportation. Many area communities have benefited by modern passenger rail transportation and The Hojack Swing Bridge would be perfect for passengers touring the Rochester area. If the bridge is mistakenly demolished it will be too late to study the use of this Historic structure linking the two sides of the Genesee River with "green" railway transportation.

3. The US Coast Guard has not complied with FOIL requests regarding the permits and demolition plans for The Swing Bridge.

3A. The group known as Hojack's Heroes and the General public has the right to view the complete documents requested from The Coast Guard, not the redacted mess that was received under the FOIL request. The public input, sought by CSXT, by its publishing of a legal notice on September 24th, 2012, will not be fully effective until ALL the information is received as requested from the Coast Guard.

In conclusion, the proposed stipulations to satisfy STB's Section 106 responsibilities has not been met in light of the possible better use of the Swing Bridge as a historic tourist attraction and business. This is especially true in light of the Coast Guard's refusal to provide information

ATTACHMENT A

Email from Mr. Margolis describing his attempts to get information from the Coast Guard on The Hojack Swing Bridge.

ATTACHMENT B

Executive Summary of Hojack's Heroes

ATTACHMENT C

Letter to Sen. Schumer

ATTACHMENT D

Letter to J. Appelbaum from Sen. Schumer

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Subject: Fwd: Coast Guard FOIA Request
From: Richard Margolis (richard@margolisstudio.com)
To: mjschank@yahoo.com;
Cc: trice@investpartners.net; richard@MargolisStudio.com;
Date: Friday, September 28, 2012 10:39 PM

Mr. Schank,

I filed the first FOIL request on September 16, 2011, received a letter saying that the USCG had no documents that matched my request. I appealed and included USCG documents. After 5 months received 11 pages of heavily redacted documents. I appealed that and months later received 4 more pages of redacted documents. I appealed that also have another useless reply.

I have written to elected officials, OGIS, and others, and filed a complaint to the DOJ. So far there have been no replies to those letters. The inquiry from Ken Courter is the only reply from the DOJ so far.

I'd suggest that we meet next week so you can select the documents you want. I'm available anytime.

Richard

Richard Margolis
Art + Architectural Photography
250 North Goodman Street
Rochester, New York 14607
585.473.0070

www.RichardMargolis.com

The Hojack Swing Bridge

Its History - and its Future

125
pages, 10 x 10 inches,
86 photographs, maps & drawings,
with essays by Joanne Arany, Stuart Bolger,
Mary Hamilton-Dunn, Eric DeLony, Alan Iselhard,
Emma Pollard Greer, Jim LaVilla-Havelin, Richard Margolis,
Joni Monroe, Richard Palmer, Charles Roemer, Harold Russell,
Peter Siegrist, Allan King Sloan and John Walsh,
edited by Richard Margolis.

Paperback \$39.95
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Hojack's Hero's Executive Summary

Purpose:

The purpose of this organization is to preserve the 1905 National Historic Landmark known as the Hojack Swing Bridge (HSB) located in the Port of Rochester at the mouth of the Genesee River, re-purpose the bridge as a memorial to the Service Members of our Armed Forces and Veterans, and create substantial and sustainable economic, cultural and historical venues to fund all manner of programs and initiatives for said Service Members and Veterans.

http://rochesterhomepage.net/fulltext?nxd_id=330052

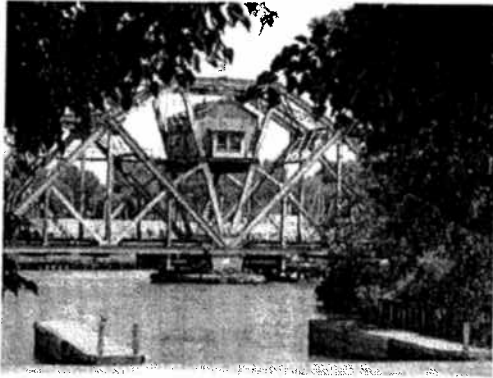
Mission:

The preservation of the HSB, is a significant and necessary endeavor to retain one of the most distinct, historically valuable and striking structures in the Port of Rochester. Being one of only two swing bridges of such engineering quality and caliber remaining throughout the Country, it is a testimony to the character of American ingenuity, economic development, industrial might and architectural prowess. It (and other bridges/structures like it) is a beacon to be revered for its instrumental role in facilitating the exponential expansion, prosperity and wealth of the City of Rochester, the State of New York and our Nation.

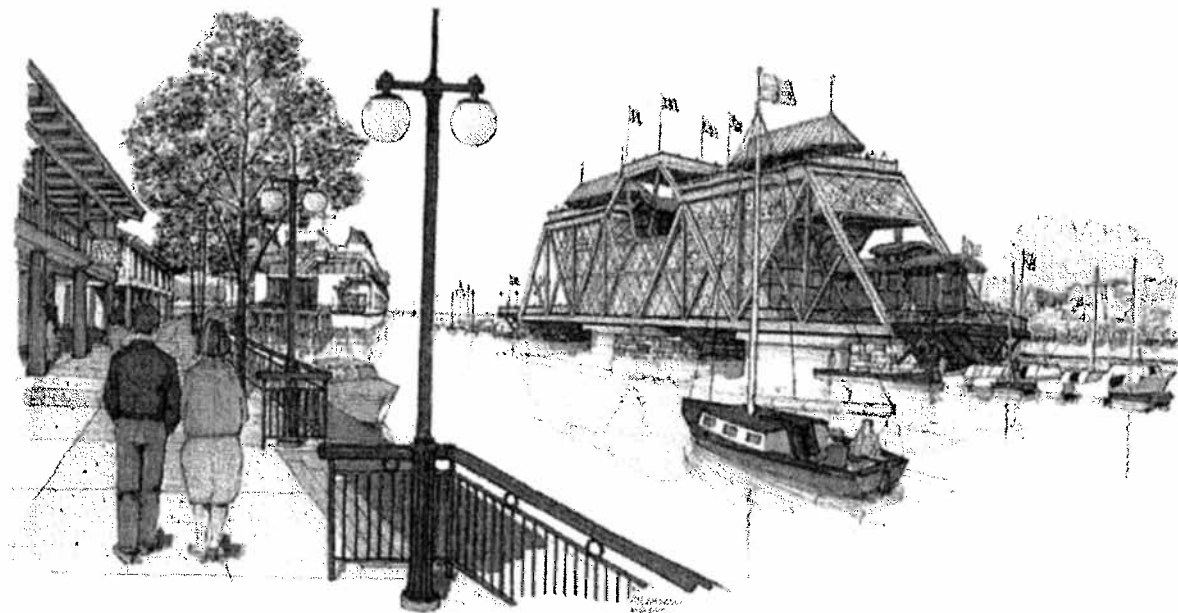
The re-purposing of the HSB as Memorial to our Veterans and Service Members of our Armed Forces, is a befitting and worthy expression of our gratitude for their dedicated, brave and unwavering service to our Flag, Freedom and Country. Like the respect and love we have for the HSB's role in bettering our lives, our economic development and might, those who are serving and those who have served deserve nothing less than our utmost respect and love for their strength, courage, unwavering service and sacrifices. In dedicating this bridge to such worthy a cause and fellow Americans, is the showing of our utmost respect and gratitude.

The corporation will, as part of re-purposing the HSB, create substantial and sustainable economic opportunities on the order of retail ventures, tourist attractions, historical guided tours via water taxi to the HSB and other nearby historically significant portions of the Genesee River via the western abutment, an observatory and conservatory for the benefit of the Port of Rochester and the preservation of local flora and fauna and a family oriented recreational facility.

In achieving the above, a fund will be created for the purpose of providing much needed services to Veterans and current members of our Armed Forces, who despite the admirable and best efforts of the Veterans' Administration and other Not For Profit organizations, yet aren't able to receive all the necessary services which would allow for better and improved opportunities to re-integrate into society, receive an education, be gainfully employed and be cared for emotionally and physically and provide a safety where needed for our soldiers and Veterans.



Current State -105 years old Hojack Swing Bridge



HOJACK SWING BRIDGE SCHEME #17
AT THE MOUTH OF THE GENESSEE
ROCHESTER, NEW YORK
BENO ARCHITECTURE P.C. APRIL 15, 2012

The Future with your Help!

Services:

With the help of CSXT and in conjunction with the OPRHP and the DEC, appropriate outdoor signs will be created to detail the corporation's undertaking and its purpose, foster a better understanding of and educate residents, visitors and tourists about the historical significance of the HSB.

As people of all stripes have become more aware of the historical significance and legacy of structures

like the HSB and the need to preserve them as part of our heritage as a people, the corporation believes that preserving and re-purposing the HSB will be a boon for the local economy. Visitors and families from all walks of life and tourists from far and wide will be able to visit and enjoy this engineering and architectural marvel. It would also present for many patrons of the HSB site, unique opportunity to see one of the two remaining swing bridges built by the King Bridge Company of Cleveland, Ohio.

We fully anticipate, given the plans we've laid out, being able to create an atmosphere where anyone who participates in the economic venture will generate a fair profit, and construct a rewarding place to work for their employees.

Management:

Mr. Tommy Plantone is the Treasurer and Director of Construction and renovations. He will be responsible for all of the financing and accounting functions. We have assembled a strong management team to execute this very worthy cause!

Mr. Timothy Rice as Director will be in charge of National and International tourism and all recreational activities, up to and including generating popular interest in the available activities, tours and so forth. Mr. Rice will be an integral part of keeping the corporation and it's vision for the HSB functioning optimally.

Mr. Arthur Daughton, Director of Historic Preservation and Secretary, whose extensive experience with the managing of Not For Profit organizations, will be directly responsible for maintaining the financial integrity of the of HH and ensure that the expectations and goals of the HH are met.

Partial List of our Supporting Members & Partners

Lt Governor Robert Duffy
Monroe County Executive Maggie Brooks
Richard Margolis Editor
John Bero Committee member
Alan Isselhard Committee member
Clay Gehring Committee member
Peter Siegrist Committee member
Stuart Bolger Committee member
Joni Monroe Committee member
Marie Poinan Committee member
Mindy Zogland, Attorney
Terry Testa Owner Pelicans Nest
Ron Youst Business Owner
Caroline Tucker
James Lawrence D&C Editor
Mick Parker C.C.A. President
Darrel Porter Assist Major City of Rochester
Richard Swacen Great Lakes Discovery Center
Richard M. Lord Historic Restoration Coordinator
Mary Habstritt President Society for Industrial Archeology.

Elizabeth S. Merritt Deputy General Council National Trust for Historical Preservation
Craig Della Penna The Rails to Trails Conservation.
Wayne Goodman Director Landmark Society Western New York.
Warren Weichbrodt Mc Donald's Business Owner
Allan King Sloan Kings Bridge Company.
Eric DeLony Ceif Historic American Engineering Record.

U.S. Tourism

One of the largest industries in the nation, the travel and tourism industry generated more than \$700 billion from domestic and international traveler's. This, in turn, created more than 7.4 million jobs with \$186.3 billion in earnings for Americans.

Source: U.S. Travel Association.

Economy in Monroe County:

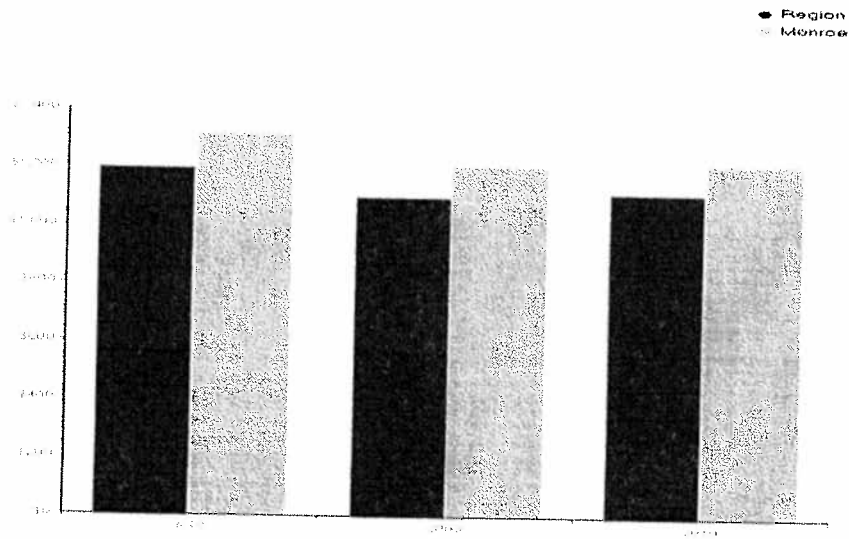
Monroe County is the anchor of the regional economy, employing 71% of the region's workers in 2009. Reflecting the steady shrinkage of manufacturing in the region and the state, the largest sector in Monroe County in 2009 was Trade, Transportation, and Utilities with 14% of the county's jobs. Manufacturing became just the 5th largest employing sector, contributing just 11% of total jobs. From 2001 through 2009, the county lost 39% of its manufacturing jobs, the largest loss in the region and larger than the state's 31% decline. By contrast, the workforce in Educational Services expanded nearly 36%, consistent with regional trends.

Monroe County's average salary, at \$44,500 in 2010, was the highest in the region by about \$7,000. However, since 2000, the average salary in Monroe (adjusted for inflation) has declined by 1%, counter to the increases experienced in the surrounding counties (7%), state (6%) and nation (5%). Salaries fell in several sectors, including Information, Natural Resources, Leisure and Hospitality and Educational Services, but they were up substantially in Government and Health Care and Social Assistance.

Tourism in Monroe County:

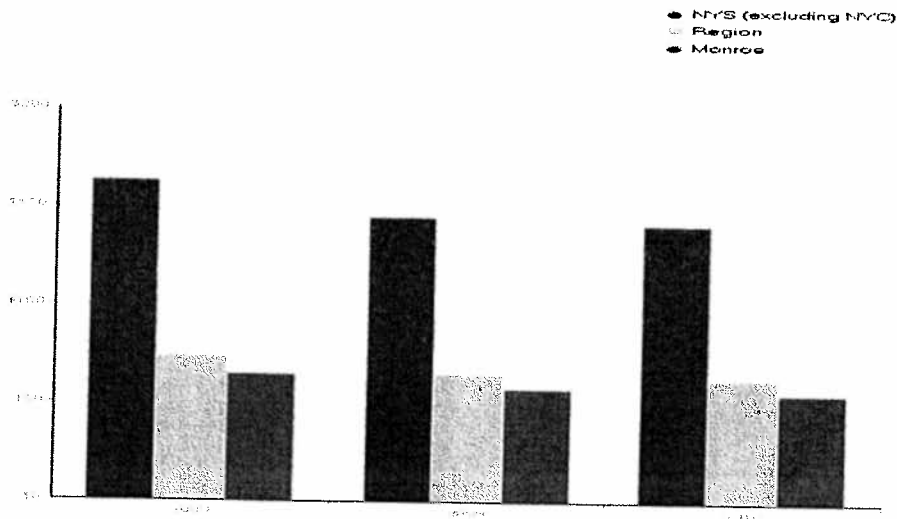
Monroe County is the center of the region's cultural scene and home to most of our area's museums, sports venues and other attractions. Visitors spent \$908 million in Monroe in 2010, though tourism revenue has fallen 10% since a peak in 2007. Monroe's tourism revenue accounts for 70% of the total for the region. Attendance at the 15 largest arts and cultural attractions in the region, most in Monroe County, grew 12% from 2002 to 2010. Attendance at music events increased by more than six-fold, due to the Xerox Rochester International Jazz Festival and the CMAC Performing Arts Center in Ontario County ranking as top cultural attractions in 2010. In addition, total attendance at professional sports games in 2010, most of them held in Monroe County, was around 701,000, not including attendance at Rochester Rhinos games, for which there were no data in 2010. Attendance at sporting events fell by 15% over the past decade.

Tourism Revenue



Recreation spending

Recreation Spending, per Resident

Rochester Seasonally Adjusted Financial
Activities Employment June 2012

Employment	Change from Last Month	Change from Last Year
22,215	20.5%	6.5%

Rochester Seasonally Adjusted Leisure &
Hospitality Employment June 2012

Employment	Change from Last Month	Change from Last Year
43,450	16.9%	4%

Source: Center for Governmental Research

Economic impact of the project:

Assuming with have 300 000 customers/year at 20 \$ per ticket, what could we realize in additional revenue by having those customers (souvenir, restaurants and drinks)?

Customer	Price/Ticket	Average price/Souvenir	Average Price/Drinks	Total Revenue
300,000	\$ 20.00	\$ 10.00	\$ 2.00	\$ 9,600,000.00

Conclusion

We the advocates and supporters of Hojack's Heroes stand united for the preservation of the 1905 National Historic Landmark known as the Hojack Swing Bridge (HSB) and to re-purpose the bridge as a memorial to the Service Members of our Armed Forces and Veterans, and create substantial and sustainable economic, cultural and historical venues to fund all manner of programs and initiatives for said Service Members and Veterans.

We will be having forums, fund raising events and briefings that we will keep you informed. We sincerely appreciate your participation and passion to help. Furthermore, we are confident that we will be a catalyst for economic development as well as a conduit to connecting the Charlotte region to Downtown Rochester.

Please reply to us indicating your support and how you would like to get involved either to Tim Rice trice@investpartners.net, 585 330-7881 or Arthur Daughton, buddaughton@gmail.com, 585 857-7665 or Tom Plantone, tplantone@amdbizbrokers.com 585-317-9212.

Timothy Rice
Hojack's Heroes
15 Schoen Place
Pittsford, NY 14534

August 23, 2012

Charles E. Schumer – United States Senator
100 State Street, Room 3040
Rochester, NY 14614

Dear Senator Schumer,

I am writing to you on behalf of a coalition of individuals and organizations regarding the 1905 Hojack Swing Bridge at the mouth of the Genesee River in the Port of Rochester. The Hojack Swing Bridge is a former railroad bridge built by the King Bridge Co. in 1905 and has been a fixture in the Port since. There are only two bridges of this type remaining in the entire United States. The historical, architectural and cultural legacy of the HSB to the Rochester region and the State of New York is incomparable. The Hojack Swing Bridge is eligible for National Historic Landmark Status and is included on the New York State's Registry of Historically Significant Places.

We are asking for a 1 year to develop our plan in more and provide CSXT the ability to sell, lease or donate the Bridge. However, below and our attachments, we will provide a current review of CSXT's requirements and where we are in satisfying their criteria.

As you may or may not know CSXT has indicated that it is in favor of preserving the Hojack Swing Bridge given its historical, cultural and architectural significance to the Rochester area and the State of New York. In a bid to save and preserve this bridge, they (CSXT) have put forth a series of criteria under which they would consider selling or donating the bridge to any qualified person or organization willing to take on the task. We, Hojack's Heroes are that organization.

Some of the criteria they have put forth are:

- 1) To have a Plan in place to Save, Preserve and to reinvigorate the main purpose of providing its original intent to be used as rail transportation- ***We have a High level Executive Summary with our purpose to save, preserve and create an environment of education, safely, jobs and economics for the Bridge.***
- 2) To create a organization that can support the financial means of maintaining the steel Superstructure provide maintenance and provide insurance for the bridge - ***In Process by forming Hojack Hero's and securing our funding which will assist in providing this support.***
- 3) Provide an Architectural and Design Plan- ***We have a High level Plan to review***

Regrettably, Commander Scot Striffler of the United States Coast Guard (USGC) has determined that the HSB presents a navigational hazard pursuant to the Federal Rivers and Harbors Act of 1899. They have directed the bridge's current owner CSX Transportation Inc. to remove it. It is difficult to imagine that the drafters of this act could have foreseen the significance of the role engineering and architectural masterpieces like the Hojack Swing Bridge, would play in American culture, economic expansion and development.

We at Hojack's Heroes are working diligently to save and preserve the Hojack Swing Bridge as a National Historic Landmark, re-purpose it as a viable and sustainable commercial venture and most importantly, dedicate it as a Memorial to Rochester's own fallen Hero, US Army Major Donald Walter Holleder who in 1967 made the ultimate sacrifice serving our Country in the Vietnam War.

However, much more work is needed to save the bridge and Hojack's Heroes needs more time to complete our efforts in meeting all the criteria set forth by CSXT and implement our plans and initiatives. We will need one more year from the end of the 2012 boating season to achieve this. Commander Striffler and the USCG, refuse to allow us this time to save the Hojack Swing Bridge, re-purpose it and dedicate it in memory to Major Holleder.

We must not and should not bear the burden of the arbitrary and capricious destruction of our historically significant artifacts and structures – for they, in many ways represent who we were, who we are and who we will become as a people and society. They are part of the fabric of who we are as a nation and they are a testimony to our ingenuity, strength and heritage. The Hojack Swing Bridge is unquestionably such a structure and destroying it would make us as a people and society that much the poorer for having lost such an important and monumental part of our history. Given your experience in helping our Veterans and Soldiers, and preserving our history and historic places such as The Canandaigua VA Medical Center, we kindly request your help in saving and preserving the 1905 Hojack Swing Bridge.

As such, we respectfully request a meeting with you as soon as possible to discuss our ideas, plans and purposes for the Hojack Swing Bridge. Your intervention on our behalf with Commander Scot Striffler and the USCG, in delaying the destruction of this beautiful and significant icon of American industrial and economic might, would ensure the success of our endeavors.

We at Hojack's Heroes thank you in advance for your time, much needed attention to and anticipated assistance with this important project.

Very Truly Yours,

Timothy Rice
For Hojack's Heroes

Enclosures

United States Senate

WASHINGTON, DC 20510

September 6, 2012

Judith C. Appelbaum
Acting Assistant Attorney General for Office of Legislative Affairs
Office of Legislative Affairs
U.S. Department of Justice
950 Pennsylvania Avenue, NW, Room 1145
Washington, DC 20530

Dear Acting Assistant Attorney General Appelbaum,

At the end of July, 2012, we received copies of letters from a constituent, Richard Margolis, to the Department of Justice concerning his efforts to attain materials from the United States Coast Guard (USCG) under the Freedom of Information Act concerning the USCG's order to CSX Railroad to remove the Hojack Swing Bridge on the Genesee River in Rochester, NY.

In his efforts to learn more information regarding the USCG's decision, Mr. Margolis submitted three Freedom of Information Requests and received 15 pages of information. When Mr. Margolis contacted our offices, he expressed his concern that the USCG did not provide him with the full information requested via the Freedom of Information Request. Mr. Margolis informed us that he had made a request with your office in attempts to clarify the USCG's response to his Freedom of Information Request.

We ask that you please review the request that Mr. Margolis has placed with your office to ensure that he receives any information he lawfully has a right to through the Freedom of Information Law.

Sincerely,



Charles Schumer
United States Senator

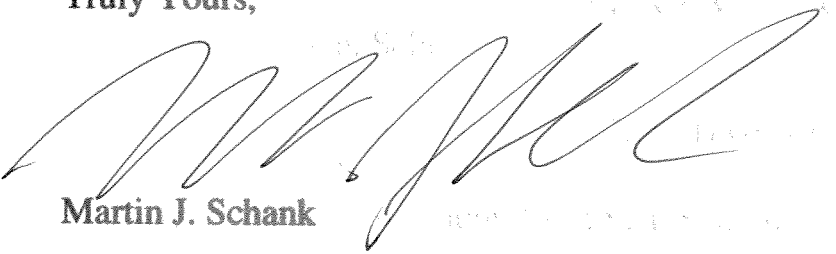


Kirsten Gillibrand
United States Senator

regarding the bridge under the FOIL requests as discussed in the attached letters.

A resolution far superior to the demolition of this historic structure needs to be re-evaluated as a superior resolution of the Section 106 responsibilities which would involve saving this Historic structure and allowing tourist transportation over the bridge, which would allow the bridge to stand, as it would once again be a functioning part of the historic transportation system of the State of New York.

Truly Yours,



Martin J. Schank

Counsel for
The Citizens group known as Hojack's Heroes

cc Catherine Glidden gliddenc90@gmail.com

Victoria Rutson RutsonV@stb.dot.gov

Kenneth Blodgett Kenneth.Blodgett@stb.dot.gov

Alexa Chappell Alexa.Chappell2@usdoj.gov

ChrisZeltmann Chris_Zeltmann@schumer.senate.gov

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