

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 35745

**NEW JERSEY ASSOCIATION OF RAILROAD PASSENGERS AND
NATIONAL ASSOCIATION OF RAILROAD PASSENGERS
- PETITION FOR DECLARATORY ORDER -
PRINCETON BRANCH**

(Exhibits Contain Color Images)

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Dated: June 24, 2013

Attorneys for New Jersey Association of
Railroad Passengers and National
Association of Railroad Passengers

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The New Jersey Association of Railroad Passengers (“NJ-ARP”) and the National Association of Railroad Passengers (“NARP”) (NJ-ARP and NARP are sometimes referred to collectively as “Petitioners”) request that the Board exercise its discretion under 49 USC §721 and 5 USC §554(e) to remove uncertainty, and declare that the Princeton Branch (as more fully described below) is a line of railroad subject to the jurisdiction of the Board, and that any abandonment of all or part of the line, including the railroad station buildings located thereon, must be approved by the Board under 49 USC §10903 and the Board’s regulations at 49 CFR Part 1152 (abandonment of rail lines) and 49 CFR Part 1105 (implementation of environmental laws).

THE PETITIONERS AND THEIR INTERESTS

NJ-ARP is the leading consumer rail passenger organization in New Jersey. It is a not-for-profit corporation established in 1980 by concerned New Jersey residents to advocate for public transit needs in the State of New Jersey.

NARP is a 501(c)(3) non-profit organization formed in 1967 to work for a modern, customer-focused national passenger train network that provides travel choices that the public wants. NARP is the largest national membership advocacy organization for train and rail transit passengers with approximately 20,000 individual members, including residents of New Jersey.

Petitioners represent the interests of rail passengers in New Jersey concerned that New Jersey Transit Corporation (“NJT”) and Princeton University (the “University”) are taking steps to abandon a portion of the Princeton Branch line of railroad without acquiring prior authorization from the Board in violation of the requirements of 49 USC §10903 and the Board’s regulations related thereto. Petitioners believe that the result of the unauthorized changes that NJT and the University are proposing will make passenger train service to and from downtown Princeton less useful and desirable for the travelling public, and that the abandonment is not justified by the public convenience and necessity.

BACKGROUND

The questions presented by this Petition are whether the Princeton Branch is subject to the Board’s jurisdiction, and accordingly, whether abandonment authority from the Board is required before any portion of the Princeton Branch can be abandoned.¹

The Princeton Branch is a 2.9 mile rail line that runs from Princeton Junction to the Princeton Station buildings near downtown Princeton.² The passenger service provided over the Princeton Branch is commonly known as the “Dinky.” The Princeton Station is comprised of two stone buildings – what were originally the station building (the “North Building”), and the Railway Express Agency (“REA”) freight house (the “South Building”). The Princeton Station buildings were listed on the New Jersey Register of Historic Places in March, 1984, and on the

¹ Although Petitioners address in a general fashion why they believe the proposed abandonment would be harmful to the riding public and would not meet the public convenience and necessity test for an abandonment, that issue is not a proper subject for this proceeding. Instead that is the showing that NJT and the University would need to demonstrate in the abandonment proceeding that they should be required to file with the Board if they want to proceed with the abandonment of a portion of the Princeton Branch and the historically-certified Princeton Station.

² Effective January 1, 2013, Princeton Township and Princeton Borough consolidated into a new municipality called Princeton. The Princeton Branch runs through what was formerly Princeton Township to the station which is in what was formerly Princeton Borough.

National Register in September, 1984. The current location of the Princeton Station buildings is convenient to the University's McCarter Theater and the University's campus, to the Princeton Theological Seminary and the Institute of Advanced Study, and to Nassau Street, Princeton's prime commercial thoroughfare. A map of downtown Princeton showing the location of the Princeton Branch and the Dinky Station is attached hereto as Exhibit A.

The Princeton Branch was originally over three miles long when it was opened in the 1860's for freight and passenger service with the original station being located at the end. Over time the line was shortened as the station was moved closer into what was then the Borough of Princeton. The current Princeton Station buildings were opened in approximately 1920. Eventually, the line was operated as part of the Pennsylvania Railroad (and later Penn Central) family, which operated both passenger and freight service over the line into its bankruptcy in the 1970's with other railroads in the northeast. The line was examined in the Final System Plan ("FSP") which begat Consolidated Rail Corporation (now called Conrail). The Final System Plan noted the testimony provided regarding the future of the branch:

The major concern of testimony received on [the Princeton Branch] focused on passenger service. A spokesman for Princeton University noted that the Princeton "Dinky" is the only public transportation which provides access to the Penn Central main line for the 4,400 employees and 5,800 students at the university. ...

Testimony was presented citing the adverse effects abolition of rail passenger service would have on the environment.

FSP, Vol. II at 212. The Princeton Branch was designated for purchase or subsidy by a public entity for continued passenger service. *Id.* at 213. The line was transferred by the Trustees of Penn Central to Conrail in 1976, and Conrail provided passenger service over the line until 1983 under an arrangement with the New Jersey Department of Transportation ("NJDOT"). The Northeast Rail Services Act of 1981 relieved Conrail of its obligation to provide commuter

services after January 1, 1983, and the operations were turned over to NJT which was designated by the State of New Jersey to take over Conrail's commuter rail operations. See *The New Jersey State Rail Plan Final Draft*, December 2012 ("*NJ Rail Plan*")³, at ES-3, ES-7, 1-19. The Princeton Branch, including the Princeton Station buildings, was eventually deeded by Conrail to the State of New Jersey in 1984.⁴ No abandonment authority for any or all of the Princeton Branch or the Princeton Station was ever sought by any party from the Interstate Commerce Commission ("ICC").

NJT is a state run agency that provides, *inter alia*, commuter rail services. NJT provides direct rail service to New York Penn Station, and through an agreement with New York's Metropolitan Transportation Authority Metro-North Railroad ("Metro North"), into other New York State locations. *NJ State Rail Plan*, at ES-1.

As noted above, passenger service over the Princeton Branch has been provided by NJT since 1983. The Branch and the Dinky service remain a vital transportation link for employees and students at the University, for commuters, and for visitors to the University and to Princeton. There are currently 84 trains per day that operate over the Princeton Branch on weekdays, and 58 trains that do so on Saturdays, Sundays and Holidays.⁵ Attached as Exhibits C - G are a map of the NJT system and several current timetables published by NJT and by Metro-North. The map and the timetables demonstrate the interstate connections for the Branch and the riders that use

³ The NJ Rail Plan can be found at <http://www.njtransit.com/pdf/NJStateRailPlanDec2012.pdf>.

⁴ Although the deed was signed and acknowledged in June, 1984 (and recorded on March 5, 1985), it purports to be effective as of April 1, 1976. No explanation is given in the deed as to what caused the delay in the transfer or what entity was responsible for the line after 1976 while Conrail was still operating over the line. See 1984 Deed from Consolidated Rail Corporation to NJDOT, attached hereto as Exhibit B.

⁵ The times for the Princeton – Princeton Junction trains can be found on the NJT website at www.njtransit.com, and in part on the NJT Northeast Corridor timetable attached as Exhibit D.

the Dinky service. The Branch is an integral part of the NJT system. Most Princeton Branch riders travel between New Jersey and New York City, but there are also seamless NJT connections (with through ticketing) at Secaucus to Port Jervis and other points in New York State (via Metro-North). In addition, there is connecting service to Newark International Airport, and to Amtrak at Princeton Junction, Trenton and New York City. The Princeton Branch is also connected by NJT to Philadelphia and other points in Pennsylvania and Delaware via a connection with Southeastern Pennsylvania Transportation Authority's ("SEPTA") Regional Rail System at Trenton, and to points on Long Island via a connection with MTA's Long Island Rail Road in New York City. Tickets valid for interstate travel are sold by NJT between Princeton and New York City as well as to points in Orange and Rockland Counties of New York State served by trains operated by NJT on behalf of MTA Metro-North Railroad. *See* the tickets from Port Jervis, NY to Princeton (distance of over 120 miles), and from Princeton to New York's Penn Station attached as Exhibit H. Riders can also purchase tickets from NJT at the Princeton Station to Philadelphia for use on SEPTA trains. *See* the two-part ticket from Princeton to Philadelphia, PA attached as Exhibit H. The *NJ Rail Plan* explains how the NJT system is complementary to Amtrak's inter-city northeast corridor service. *NJ Rail Plan* at 1-2, 1-25.

Shortly after being deeded title to the Princeton Branch (and before the deed to NJT was even recorded), NJT agreed to sell the property containing approximately 1000 feet of the north end of the Branch, and the Princeton Station buildings, to Princeton University. *See* Sale Agreement between NJT and the Trustees of Princeton University dated October 30, 1984 attached hereto as Exhibit I, and Corrected Deed from NJT to Princeton University dated April 29, 1985, and Deed from NJT to Princeton University dated December 5, 1984 attached hereto as

Exhibit J. Under the Sale Agreement (§ 4 and Ex. B, and §§ 15, 17) and the Corrected Deed, NJT retained an easement for its right of way, tracks and catenary, a station to provide a passenger waiting room, a ticket office, storage space, a mechanical area, a bathroom and crew quarters, and a station platform of at least 170 feet in length (at the time the platform was 340 feet long). The Sale Agreement also preserved a pedestrian easement to provide access rights for its passengers, employees, contractors and agents to reach the Princeton Station and the right of way. The University agreed to improve the station building and platform, and to provide commuter parking spaces. The University was given the right to move the station facilities from the northern end of the station buildings to the southern end of the buildings and to align the end of the tracks with the new end of the platform, so long as equivalent facilities were provided, including a 170-foot station platform. Sale Agreement, §§ 15(a), (b), (d). The University in fact did exercise these rights in 1987 and relocated the station facilities to the Southern Building (formerly the REA freight house), and NJT removed its tracks from this point to the northern limit of the property conveyed to the University (approximately 200 feet).

The University has now proposed to redevelop the area adjacent to the Princeton Station buildings for its own private purposes, including the construction of three new arts buildings, and the renovation of the station buildings into a café and restaurant. The project also includes the proposed abandonment of the northern 460 feet of the Princeton Branch and the relocation of the station facilities and platform as well, and to effectuate its plan, in October 2010, the University notified NJT that it was requiring NJT to move its station further south, purportedly pursuant to the Sale Agreement, as amended.⁶ The new location for the station and platform would be

⁶ There is disagreement about whether the Sale Agreement, as Petitioners and other groups argue, only gives the University the right to shift the station facilities south from the North Building to the South Building, a right that was exercised in 1987, or as the University argues,

adjacent to an existing University parking garage and would also include the construction of a Wawa convenience store. The new northern terminus of the rail line would be south of a proposed new northern garage entrance for the parking garage which would be constructed across the current right-of-way without the grade crossing that would be required if the rail line were left in place. The new configuration is designed to facilitate access to parking for patrons of the University's planned Arts Center and University employees. The relocated station facilities would be located down a hill and further from downtown Princeton and from the University and its new Arts Center buildings. In order to access the planned new station location, able-bodied passengers would be required to walk an additional 700 feet and those with mobility limitations would have to negotiate an additional 1100-foot ADA-compliant route. *See* the schematic attached hereto as Exhibit K.⁷ That the move would make the station less pedestrian-accessible to Princeton's downtown area, centered along Nassau Street and around Palmer Square, and the University, is further demonstrated by the fact that University intends to run shuttle buses from the downtown area to the proposed new station location adjacent to its existing parking garage. The project would eliminate a crossing of the NJT tracks in order to access the University's parking garage - a minor benefit to those driving to the University at the cost of convenience to the train-riding public.

gives the University the right to require NJT to abandon a portion of its line and the Princeton Station, and move the station even further to the south. Regardless of how the Sale Agreement is interpreted, Petitioners do not believe that the University can abandon, or require the abandonment of, any portion of the Princeton Branch or the Station buildings without the prior authorization of the Board.

⁷ More immediately, during construction, NJT and the University are proposing to create temporary station facilities an additional 750-1100 feet further away, and to provide shuttle buses to and from the Princeton Station buildings. These facilities, even with the proposed shuttle busses, would be more difficult to use, and less desirable for commuters, including students and professors, and other visitors.

Petitioners contend that the proposed changes will make access to the Dinky service more difficult and inconvenient and will have a marked adverse effect on ridership and on the continued viability of the Dinky, and that the proposed abandonment cannot be justified under the Board's public convenience and necessity test. Other local interests have also opposed the University's plan.⁸ Further, they believe that the new Arts Center buildings and campus can be designed to accommodate continued rail service to downtown Princeton, the retention of the existing rail line (including the additional access that the University desires for its existing parking garage), and the continued use of the historical Princeton Station building. This could all be accomplished by constructing a simple grade crossing for the new northern access to the parking garage that could be designed and built in accordance with Federal Railroad Administration requirements for establishing a "quiet zone."

DISCUSSION

A. The Board has jurisdiction over lines of railroad which are part of the interstate network.

Under 49 USC §10501(2)(A), the Board has jurisdiction over transportation by rail carriers (1) between a place in a state and place in another state, and (2) between a place in a state and another place in the same state, as long as that intrastate transportation is carried out as "part of the interstate rail network." Further, under 49 USC § 10501(b), that jurisdiction is exclusive. Section 10501(b) provides:

The jurisdiction of the Board over

(1) *transportation by rail carriers*, and the remedies provided in this part [49 USC §10101] with respect to rates, classifications, rules (including car

⁸ There is currently ongoing litigation in the New Jersey courts challenging the interpretation of the Sale Agreement, the zoning changes adopted to accommodate the project, and the New Jersey Department of Environmental Protection decision to allow NJT to terminate the historic use of the Princeton Station buildings.

service, interchange, and other operating rules), practices, *routes, services and facilities of such carriers*; and

(2) the construction, acquisition, operation, *abandonment*, or discontinuance of spur, industrial, team, switching, or side tracks or *facilities, even if the tracks are located*, or intended to be located, *entirely in one State*,

is exclusive. Except as otherwise provided in this part, *the remedies provided under this part with respect to regulation of rail transportation are exclusive and preempt the remedies provided under Federal or State law*.

49 USC §10501(b) (emphasis added). While usually discussed in the context of freight transportation, it is clear that the Board has jurisdiction over passenger lines and facilities, and operators that are providing interstate common carrier passenger service.

In finding that it had jurisdiction over the passenger rail line to be constructed by DesertXpress Enterprises, LLC (“DesertXpress”), the Board found that it has jurisdiction over “transportation by a rail carrier.” *DesertXpress Enterprises, LLC – Petition for Declaratory Order*, STB Finance Docket No. 34914 (“*DesertXpress I*”) (served June 27, 2007), at 4 (citing 49 USC §10501(b)). The Board noted that a “rail carrier” is a “person providing common carrier railroad transportation for compensation,” 49 USC §10102(5), and that “transportation” is defined “expansively” to include “a locomotive, car, vehicle, vessel, warehouse, wharf, pier, dock, yard, *property, facility, instrumentality, or equipment* of any kind related to the movement of *passengers* or property, or both, by rail...” *Id.*, at 4 and 4 n.6. As such, the Board found that it clearly had jurisdiction over the planned construction of the proposed new 200-mile track between Victorville, California, and Las Vegas, Nevada, and of the new ancillary facilities (including two passenger stations and a maintenance, storage and operations center). The Board reiterated its jurisdictional findings in in a second decision almost three years later. *DesertXpress Enterprises, LLC – Petition for Declaratory Order*, STB Finance Docket No.

34914 (“*DesertXpress II*”) (served May 7, 2010). In this confirming decision, the Board found both (1) that if the transportation is between points in two states, it does not need to determine if the transportation is part of the interstate rail network, and (2) that the Board only has to look at whether the transportation is part of the interstate rail network if the transportation takes place all in one state. *Id.* at 8-10. Further, in *DesertXpress II*, the Board rejected the notion that to be part of the interstate rail network, or to be subject to Board’s jurisdiction, a line must either serve freight shippers or must be physically connected to a line that serves freight shippers. In other words, passenger only lines can be subject to the Board’s jurisdiction. *Id.* at 11-12. The Board noted that remedial statutes (like the ICC Termination Act) should be interpreted broadly and liberally, and that exemptions from its coverage should be construed narrowly. *Cf. DesertXpress II*, at 15 (citing US Supreme Court decisions regarding the scope of the Interstate Commerce Act).

In another recent decision, the Board, although finding no jurisdiction over the line in question, discussed the criteria that it examines in determining whether a passenger line is subject to the Board’s jurisdiction. *All Aboard Florida – Operations LLC and All Aboard Florida – Stations – Construction and Operation Exemption – In Miami, FLA. and Orlando, FLA*, STB Docket No. FD 35680 (“*AAF*”) (served December 21, 2012). All Aboard Florida (“*AAF*”) filed a notice of exemption for the construction and operation of a 230-mile rail line, primarily within the existing rail corridor of freight operator Florida East Coast Railway, LLC (“*FECR*”), along with four passenger stations. *AAF* then moved to have its notice dismissed on jurisdictional grounds arguing that the line would all be located in one state, and that it would not be part of the interstate rail network. *AAF* asserted that the proposed line would not connect with Amtrak or any other interstate passenger rail service provider, and that *AAF* would not

provide through ticketing with Amtrak. AAF acknowledged that its proposed Orlando station would be near the Orlando International Airport and that some passengers might use the rail service as part of multimodal interstate transportation. Because no one opposed the motion to dismiss, there was nothing in the record that demonstrated that the intrastate operations would be part of the interstate rail network. In dissent, then-Vice Chairman Mulvey, relying on *DesertXpress II*, would have found that the AAF proposed line would be part of the interstate rail network because the term should be “broadly construed,” and the proposed line in Florida was clearly “related to interstate commerce.” *AAF*, at 5 (citing *DesertXpress II* at 8, 11). Mr. Mulvey would have considered such factors as the fact that the line would be constructed within an existing freight right of way and used by a freight railroad, that the line would have a hub near the airport designed to capture passengers in interstate commerce, that the line would have access to three ports along the coast presumably to capture cruise traffic, that there will be synergies and connections with Amtrak, and that advertising would likely be done outside the state and on the internet similar to any business catering to tourists. *AAF*, at 6-7.

Most recently, the Board refused to dismiss an application by the California High-Speed Rail Authority, finding that the Board had jurisdiction over the proposed passenger line construction. *California High-Speed Rail Authority – Construction Exemption – In Merced, Madera and Fresno Counties, Cal.*, STB Docket No. FD 35724 (“*California High-Speed Rail*”) (served June 13, 2013).⁹ Relying on the factors set forth in *DesertXpressII*, the Board found that this initial 65-mile segment of a planned 800-mile high speed system connecting major California population centers between San Francisco, Los Angeles and San Diego, was part of the interstate rail network despite being located all in one state. The Board found that there

⁹ The Board announced its preliminary finding of jurisdiction in a decision served April 18, 2013.

would be extensive interconnectivity with Amtrak and its interstate passenger rail network and that Amtrak's services would initially be "blended" with the operations of Caltrans. *California High-Speed Rail*, at 11-12. Later, Amtrak would be a feeder system for the new state system, and the new system would have stations at existing transportation hubs that would enhance connectivity to Amtrak. *Id.*, at 13.

From these decisions it is clear that if a passenger line operates between points in two or more states, or if the passenger line is part of the interstate rail network, then the Board has jurisdiction over the line (and its associated facilities).

B. The Board has jurisdiction over the Princeton Branch.

The Princeton Branch has long been subject to the jurisdiction of the Board and its predecessor the Interstate Commerce Commission ("ICC"). Freight and passenger traffic have been handled over the line since the 1860's, eventually by Penn Central. Pursuant to the Final System Plan, the Branch was transferred to Conrail in 1976, and Conrail continued to provide commuter rail services under an arrangement with the New Jersey Department of Transportation until 1983 when Conrail was relieved of its obligations to perform commuter services, and NJT took over the passenger operations. The Princeton Branch, including the Princeton Station buildings, was not actually deeded to New Jersey until 1984.

NJT has been found to be a common carrier that is engaged in interstate commerce. *See Fitchik v New Jersey Transit Rail Operations, Inc.*, 678 F. Supp. 465, 466 (D.N.J. 1988) (dismissed on 11th Amendment grounds), *aff'd*, 1988 U.S. App. LEXIS 14363 (3rd Cir. 1988), *rev'd en banc*, 873 F.2d 655 (3rd Cir. 1989), *cert. denied*, 493 US 850 (1989). The tracks, catenary, signals, and the easements for the right of way and for access, as well as the station buildings, that make up the Princeton Branch are all clearly part of the "property, facility,

instrumentality, or equipment” used by NJT in the movement of passengers, and are therefore “transportation” as defined under ICCTA, and potentially subject to the jurisdiction of the Board.

As discussed in Section A above, when passenger service is being provided over a line of railroad between two states, or when that line is part of the interstate rail network, it is subject to the jurisdiction of the Board. There can be no doubt that the passenger service provided by NJT to and from the Princeton Station is interstate in nature, or that the Princeton Branch is part of the interstate rail network.¹⁰ Although freight traffic is no longer handled over the Princeton Branch, NJT has provided common carrier passenger service over the Branch between the Princeton Junction station and the historic train station in Princeton since 1983. The Dinky service connects with NJT’s Northeast Corridor which not only provides service to New York’s Penn Station, but also to other stations in New York State. There is also connecting service with SEPTA to Philadelphia and points in Pennsylvania, several connections with Amtrak, and service to Newark International Airport. *See* through ticketing and connecting service options described at pages 4-5 above.

The transfer by NJT to Princeton University of a portion of the line and the station did not divest the Board of jurisdiction. Since the Princeton Branch is and was a line of railroad, the purported transfer by NJT to Princeton University in 1985 required authorization by the ICC. The failure of NJT and Princeton University to obtain such authorization may make the transfer void or voidable. In any event, Princeton University’s unauthorized acquisition of the portion of the line and the station does not change the character of the property as a line of railroad, or

¹⁰ The determination of whether intrastate passenger service is part of the interstate rail network is a fact-specific determination. *AAF*, at 3.

divest the Board of jurisdiction.¹¹ When a non-carrier acquires a line of railroad without a determination that it is not acquiring control of the rail line, it may become a common carrier with residual common carrier obligations. *See State of Maine, Department of Transportation – Acquisition and Operation Exemption – Maine Central Railroad*, 8 ICC 2d 835, 837 n.6, 838 (1991). Further, the tracks and the easement to use the property and the Princeton Station which were retained by NJT also remain subject to the jurisdiction of the Board.¹²

C. No portion of the Princeton Branch may be abandoned without the prior authorization of the Board.

Just as construction of a line of railroad to be used for interstate passenger service is subject to prior authorization by the Board (*see California High-Speed Rail, DesertXpress I and II*), so should abandonment of a line used for interstate passenger service be subject to prior authorization of the Board. Pursuant to 49 USC 10903(a)(1):

A rail carrier providing transportation subject to the jurisdiction of the Board under this part who intends to –

(A) *abandon any part of its railroad lines; or*

(B) *discontinue the operation of all rail transportation over any part of its railroad lines,*

must file an application relating thereto with the Board. An abandonment or discontinuance may be carried *out only as authorized under this chapter.*

¹¹ In paragraph 3(b) of the Sale Agreement, the University agreed to acquire the property subject to all existing and future laws and regulations. This would include the Interstate Commerce Act, and now the ICC Termination Act, and the obligations under those Acts to seek authority for the University's initial acquisition from NJT, and also the obligation to seek abandonment authority before the line and or station is abandoned.

¹² Even when the property underlying a rail line is properly sold to a non-carrier such as a state, the Board retains authority over the railroad line, and the common carrier operating over the line. *See Friends of the Aquifer*, STB Finance Docket No. 33966 (served August 15, 2001), at 4.

(Emphasis added.) Thus, the Board should instruct NJT and Princeton University that they may not abandon any portion of the Princeton Branch, including the Princeton Station buildings, until and they file an application with the Board, and then only if that application were granted after full consideration.

Petitioners expect that NJT and Princeton University may argue that the Board does not have jurisdiction over the proposed abandonment because the Board has only limited jurisdiction over “mass transportation provided by a local governmental authority.” 49 USC §10501(c). However, this argument must fail for several reasons.

First, it is clear that the exception only applies to transportation *services* and not to transportation *facilities*. Section 10501(c)(3) specifically states that the term “mass transportation” means only “transportation *services*.” (Emphasis added.) Moreover, the cross-referenced definition (49 USC §5302(a)) equates “mass transportation” with “public transportation,” and in turn defines “public transportation” as transportation by a conveyance (i.e., the provision of transportation service). 49 USC §§5302(a)(7), (10). This is clearly distinct from a public transportation *facility* which is referred to in the statute as a “fixed guideway.” 49 USC §5302(a)(4). As the Board noted in *DesertExpress II*, exceptions from the Board’s jurisdiction should be construed narrowly. Thus, the exception in Section 10501(c) should not be read as divesting the Board of its jurisdiction over the tracks, reserved easements, station buildings or underlying real property which comprise the Princeton Branch, nor should it relieve the owners of the Princeton Branch and the Station buildings of the need to get abandonment authority from the Board before any portion is abandoned.¹³

¹³ Moreover, the Section 10501(c)(3) exemption clearly does not apply to Princeton University since it is a private university and not a “local governmental authority.” See 49 USC §5302(a)(6).

SERVICE OF PETITION

The Board's regulations do not specifically require a petition for declaratory order to be served on any particular potential parties. However, Petitioners are serving a copy of the Petition on both NJT and Princeton University so that they will have the opportunity to respond within the twenty-day response period under 49 CFR 1104.13(a), and the Board will be able to process this Petition in a timely fashion.

REQUESTED RELIEF

Based on the foregoing, Petitioners request that the Board declare that the Princeton Branch is subject to the Board's jurisdiction, and that any abandonment of all or part of the Princeton Branch, including the historic Princeton Station buildings located thereon, is not permitted without the prior authorization of the Board. Further, the Board should order that NJT and Princeton University immediately cease all actions related to their proposed abandonment of a portion of the Princeton Branch and Princeton Station buildings until, and only if, they have obtained proper authority from the Board.

Respectfully submitted,



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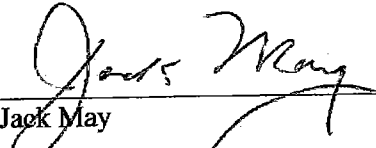
Dated: June 24, 2013

Attorneys for New Jersey Association of
Railroad Passengers and National
Association of Railroad Passengers

VERIFICATION

I, Jack May, Vice President of the New Jersey Association of Railroad Passengers, verify under penalty of perjury that statements contained in the foregoing Petition for Declaratory Order are true and correct to the best of my knowledge and belief. Further, I certify that I am qualified and authorized to file this Verification.

Executed on June 24, 2013.

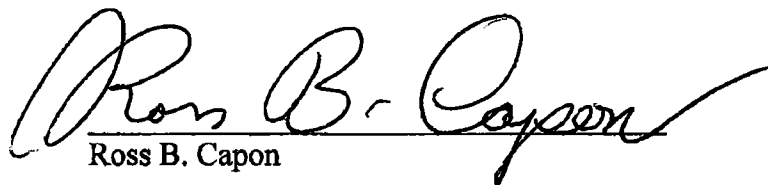


Jack May

VERIFICATION

I, Ross B. Capon, President and CEO of the National Association of Railroad Passengers, verify under penalty of perjury that statements contained in the foregoing Petition for Declaratory Order are true and correct to the best of my knowledge and belief. Further, I certify that I am qualified and authorized to file this Verification.

Executed on June 24, 2013.



Ross B. Capon

CERTIFICATE OF SERVICE

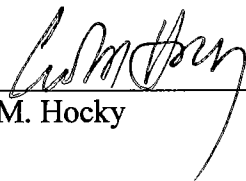
I hereby certify that on the date set forth below, I caused a copy of the foregoing Petition for Declaratory Order to be served by Federal Express, on New Jersey Transit and on Princeton University, as follows:

James Weinstein
Executive Director
New Jersey Transit Corporation
One Penn Plaza East
Newark, NJ 07105

Kenneth M. Worton
Deputy Attorney General
New Jersey Transit Corporation
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Peter McDonough
General Counsel
Princeton University
693 Alexander Road
Princeton, NJ 08540

Dated: June 24, 2013


Eric M. Hocky