

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. AB-167 (Sub-No. 1094)A

CHELSEA PROPERTY OWNERS—ABANDONMENT—PORTION OF THE
CONSOLIDATED RAIL CORPORATION’S WEST 30TH STREET SECONDARY
TRACK IN NEW YORK, NY

Decided: August 29, 2002

In a decision served in this proceeding on September 16, 1992,¹ the Interstate Commerce Commission (ICC) authorized the abandonment of a 1.45-mile rail line (known as the Highline) owned by Consolidated Rail Corporation (Conrail) in the Borough of Manhattan, NY.² The application underlying the proceeding was an “adverse abandonment” application filed by the Chelsea Property Owners (CPO), a group seeking to develop the real estate occupied by the Highline. CPO asked for the abandonment authority to remove plenary Federal jurisdiction over the rail line.

Conrail operated over the Highline viaduct pursuant to an easement whose termination terms require Conrail to absorb the cost of demolishing the viaduct. An abandonment constitutes termination under the easement. Based on CPO’s representations, the ICC conditioned the abandonment authorization granted in the September 16 decision on CPO agreeing to indemnify Conrail for all demolition costs in excess of \$7 million and posting “an appropriate surety bond or similar security” to ensure payment. Chelsea at 792 and 794.

On August 14, 2002, CPO filed a motion requesting that an order be issued finding that a settlement agreement CPO negotiated with involved railroad and government interests³ satisfies the

¹ Chelsea Property Owners—Aban.—The Consol. R. Corp., 8 I.C.C.2d 773 (1992) (Chelsea), aff’d sub nom. Consolidated Rail Corp. v. ICC, 29 F.3d 706 (D.C. Cir. 1994).

² The line, which runs along an elevated viaduct between 34th Street and Gansevoort Street, is a segment of Conrail’s West 30th Street Secondary Track.

³ The rail interests include New York Central Lines, LLC, Consolidated Rail Corp., Conrail Inc., CSX Corporation, and CSX Transportation, Inc. The government interests include The City of New York, New York City Economic Development Corporation, New York Convention Center Development Corporation, Metropolitan Transportation Authority, and Triborough Bridge and Tunnel

indemnity condition.⁴ On August 16, 2002, the Friends of the High Line, Inc. (Friends), filed a petition to reopen the September 16 decision.⁵ CPO and Friends, on August 28, 2002, filed a joint request to extend their respective reply dates to accommodate the Labor Day weekend and their counsel's schedules. They request that the due date for Friends to reply to CPO's motion be extended to September 6, 2002, and that the due date for CPO to reply to Friends' petition be extended to September 19, 2002. The request is reasonable and will be granted.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The due date for Friends to reply to CPO's motion is extended to September 6, 2002, and the due date for CPO to reply to Friends' petition is extended to September 19, 2002.
2. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

³(...continued)
Authority.

⁴ An earlier attempt by CPO to satisfy the indemnity condition was found inadequate in a decision in this proceeding served on July 14, 1999.

⁵ Friends claims that the Highline is an historic structure that must be preserved and that its demolition would have far different environmental effects than envisioned in the September 16 decision. Additionally, it claims to be working with public and private partners to raise the funds necessary to prepare the right-of-way for public use and potential transportation service under the National Trails System Act, 16 U.S.C. 1247(d).