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SEC

SERVICE DATE - JUNE 4, 2003

SURFACE TRANSPORTATION BOARD

NOTICE

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

AGENCY: Surface Transportation Board.

ACTION: Notice of Public Hearing.

SUMMARY: The Surface Transportation Board (Board) will hold a public hearing in this case on Thursday, July 24, 2003, in New York City, NY. The hearing will provide a forum for interested persons to express their views on the matters at issue in this proceeding. Persons wishing to speak at the hearing should notify the Board in writing.

DATES: The public hearing will take place on Thursday, July 24, 2003. Persons wishing to speak at the hearing should file with the Board a written notice of intent to participate (and should indicate a requested time allotment) as soon as possible but no later than July 15, 2003. Written statements by persons participating in the hearing may be submitted prior to the hearing but are not required. Persons wishing to submit written statements should do so by July 17, 2003.

ADDRESSES: An original and 10 copies of all notices of intent to participate and any written statements should refer to Docket No. AB-167 (Sub-No. 1094)A, and should be sent to: Surface Transportation Board, Attn: Docket No. AB-167 (Sub-No. 1094)A, 1925 K Street, N.W., Washington, DC 20423-0001.

FOR FURTHER INFORMATION, CONTACT: Joseph Dettmar, (202) 565-1609. [Federal Information Relay Service (FIRS) (Hearing Impaired): (800) 877-8339.]

SUPPLEMENTARY INFORMATION: In 1992, the Board's predecessor, the Interstate Commerce Commission (ICC), agreed to withdraw its jurisdiction over the Highline,¹ a 1.45-mile elevated viaduct

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. I.C.C., 29 F.3d 706 (D.C. Cir. 1994) (Conrail).

owned by Consolidated Rail Corporation (Conrail) in New York City, NY.² Chelsea Property Owners, a group comprised of owners of property crossed by the Highline, had sought the withdrawal to enable them to pursue condemnation and demolition of the viaduct. The ICC conditioned its order on CPO agreeing to indemnify Conrail for all demolition costs in excess of \$7 million.

Ten years later in August 2002, CPO advised the Board that it had negotiated a proposed settlement agreement with Conrail, CSX Transportation, Inc. (CSX), and the other rail interests, and with the involved governmental interests. CPO asked the Board to find that this agreement satisfies the indemnity condition imposed by the ICC. Friends of the Highline, Inc. has filed a petition to reopen the Chelsea decision based on historic and environmental grounds. The City of New York, which CPO evidently expected to be a signatory to the proposed agreement, has asked the Board instead to issue a certificate of interim trail use (CITU) in this case. A CITU would permit the City to negotiate with Conrail to preserve, i.e., “rail bank” the Highline pending the viaduct’s possible future restoration to rail service. Conrail and CSX have asked the Board to determine whether it has the authority to issue a CITU in these circumstances.

Date Of Hearing. The hearing will begin at 2:00 p.m. on Thursday, July 24, 2003, in the Federal Conference Center, in the Jacob Javits Federal Building, 26 Federal Plaza, New York, New York, and will extend, if necessary for every person scheduled to speak to be heard, for 2 hours.

Notice Of Intent To Participate. Persons wishing to speak at the hearing should file with the Board a written notice of intent to participate, and should indicate a requested time allotment, as soon as possible but no later than July 15, 2003.

Written Statements. Persons wishing to submit written statements should do so by July 17, 2003.

Paper Copies. Persons intending to speak at the hearing and/or to submit written statements prior to the hearing should submit an original and 10 paper copies, respectively, of their notices and/or written statements.

² The Highline is an elevated steel and concrete viaduct built in Lower Manhattan in 1930. The Highline rises from grade level on steel columns near the corner of 34th Street and Eleventh Avenue just to the north of the Caemmerer West Side Yard; loops around the Yard before turning south at 30th Street near Tenth Avenue; and extends south mostly to the west of Tenth Avenue until terminating at Gansevoort Street. The Highline was constructed pursuant to easements that require Conrail to absorb all demolition costs when the easements terminate. Abandonment constitutes termination under the easements. For a history of the Highline, see Chelsea Property Owners–Aban.–The Consol. R. Corp., 7 I.C.C.2d 991, 992-94 (1991).

Board Releases Available Via The Internet. Decisions and notices of the Board, including this notice, are available on the Board's website at "www.stb.dot.gov."

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

Dated: June 4, 2003.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary