

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: September 19, 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 Corporation (Conrail), Conrail Inc., CSX Corporation (CSX), and CSX Transportation, Inc. (CSXT). The government interests include The City of New York, New York City Economic Development Corporation, New York Convention Center Development Corporation, Metropolitan Transportation

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indemnity condition.⁴ Friends of the High Line, Inc. (Friends), filed a petition to reopen the September 16 decision on August 16, 2002,⁵ and a reply in opposition to CPO's motion on September 6, 2002.⁶ Also on September 6, 2002, Conrail individually and CSX and CSXT jointly filed replies in support of CPO's motion. CPO on September 18, 2002, filed a request to extend the due date to reply to Friends' petition to September 23, 2002. CPO states that this second extension request is necessary because of unexpected business developments and that Friends does not object. The request 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 date for CPO and other interested persons to reply to Friends' petition is extended to September 23, 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, and Triborough Bridge and Tunnel 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).

⁶ The due dates for Friends to reply to CPO's motion and for CPO to reply to Friends' petition was extended in a decision served on August 29, 2002.