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SEC

SERVICE DATE - OCTOBER 29, 2002

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: October 28, 2002

On August 14, 2002, Chelsea Property Owners (CPO) filed a motion requesting that this agency issue an order finding that a settlement agreement CPO negotiated with certain railroad and government interests¹ satisfies a condition imposed by the Board's predecessor, the Interstate Commerce Commission (ICC), in a prior decision in this proceeding issued in 1992.² Friends of the High Line, Inc. (Friends), filed a petition to reopen the 1992 decision on August 16, 2002. Replies were filed by CPO and Friends and by Conrail individually and CSX and CSXT jointly.³

On September 19, 2002, the City of New York (City) filed a motion requesting a 90-day extension, to December 17, 2002, to reply to CPO's motion and Friends' petition. The City states that it must evaluate two studies, one commissioned by Friends and one commissioned by CPO, before taking a position on CPO's petition.

CPO filed a reply to the City's motion on October 1, 2002. On October 9, 2002, the City filed a reply to CPO's reply and a motion for leave to file that reply. Also on October 9, 2002, Conrail

¹ 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 Authority, and Triborough Bridge and Tunnel Authority.

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

³ The dates for Friends to reply to CPO's motion and for CPO to reply to Friends' petition were extended to September 6 and September 19, 2002, respectively, in a decision served on August 29, 2002, and the date for CPO to reply to Friends' petition was further extended to September 23, 2002, in a decision served on September 19, 2002.

individually and CSX and CSXT jointly filed replies to the City's motion. The railroads urged that this agency expeditiously decide CPO's petition, but they declined to take a position on the City's extension request.

CPO argues that the City does not need until December 17, 2002, to consider the two studies, both of which were scheduled to be completed before the end of September. CPO also argues that the studies are irrelevant to whether the settlement agreement satisfies the ICC's condition.⁴ CPO also claims that the City was late in replying to CPO's motion and has otherwise failed to justify an extension of so long a duration.

The City contends that it could not file its motion for an extension to December 17 any earlier than it did. The City also maintains that any lesser extension would prevent it from undertaking a comprehensive consideration of the issues raised by the petition. The City adds that 10 years have passed between the imposition of the condition and the submission of the settlement agreement and, therefore, its extension request would not result in unreasonable delay in this proceeding.

The requested extension will be granted. Given the unique circumstances in this case and the potential impact on the City from the final resolution of this matter, the City should be afforded sufficient time to complete its analysis and present its position. It is expected, however, that the City will submit its comments by December 17, 2002, and that it and the other parties will make every effort to ensure that this case moves forward on a timely basis.

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

It is ordered:

1. The City's motion for leave to reply to a reply is granted and the reply appended to the motion is accepted into the record.
2. The date for the City to reply to CPO's motion and Friends' petition is extended to December 17, 2002.

⁴ On October 1, 2002, CPO filed a petition for a declaratory order on related issues. See STB Finance Docket No. 34259, [Chelsea Property Owners–Petition for Declaratory Order](#).

3. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary