

STB Docket No. AB-596, New York City Economic Development Corporation — Adverse Abandonment — New York Cross Harbor Railroad, in Brooklyn, NY

Statement of Melanie Yasbin, Staff Attorney, Office of Proceedings

Good Morning, Chairman Nober and Commissioner Morgan.

New York City Economic Development Corporation, on behalf of the City of New York (which we will refer to as the City), has filed an application under 49 U.S.C. 10903 requesting that the Board find that the tracks and facilities at the Bush Terminal Yard and the 51st Street floatbridge and related tracks, in Brooklyn, NY, that are owned by the City can be abandoned. The New York Cross Harbor Railroad (NYCH), the carrier that leases the tracks and facilities (using them to connect with its facilities in New Jersey), and seven local shippers filed a protest. The draft decision before you today would grant the City's adverse abandonment application.

The statutory standard governing any application to abandon a line of railroad, including an adverse abandonment, is whether the present or future public convenience and necessity require or permit the proposed abandonment. In implementing this standard, the Board balances the competing benefits and burdens of abandonment on all interested parties, including the railroad, the shippers who have used the line, the community involved, and interstate commerce generally. If the Board grants an adverse abandonment, its exclusive and plenary jurisdiction is removed, thereby enabling the parties to undertake legal remedies that would otherwise be barred to seek to eject the carrier and allow the property to be used for other purposes.

The draft decision before you concludes that the public interest does not require continued rail service by NYCH at the tracks and facilities at issue. The record here shows that the property is owned by the City, which, as a government entity, represents all of its citizens, not just the businesses that use NYCH's services. The City has concluded that the tracks and facilities should be put to other public uses. Moreover, alternative transportation options exist for NYCH traffic and the draft finds that the Board's jurisdiction should not be a bar to the City's plans. After evaluating all of the various interests, the draft would grant the adverse abandonment application subject to the standard employee protective conditions and environmental conditions.

That concludes my statement. If you have any question, we will be happy to answer them.