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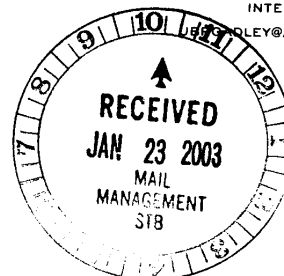
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Honorable Vernon Williams
Secretary
Surface Transportation Board
1925 K Street, N.W. Suite 700
Washington, D.C. 20423-0001

Re: Chelsea Property Owners -- Abandonment--Portion of the Consolidated Rail Corporation's West 30th Street Secondary Track in New York, NY. Docket No. AB-167 (Sub-No. 1094)A.

Dear Secretary Williams:

I write on behalf of Chelsea Property Owners ("CPO") in response to the letter of January 10, 2003 by Friends of the Highline ("FHL") asserting that if the City of New York "is able to obtain and implement a satisfactory agreement on trail use, this could make it unnecessary to decide the issues in Friends' Petition to Reopen, filed with the Board on August 16, 2002 in this proceeding." FHL suggests that the Board might want to suspend consideration of the Petition to Reopen while the City, the railroads, and other appropriate parties pursue further negotiations. CPO strongly opposes any suspension of consideration of FHL's Petition to Reopen or any other postponement which will further delay the conclusion of this proceeding which is now well into its second decade.

FHL's assertion that consideration of the Petition to Reopen may be unnecessary if the City can negotiate a Trails Act agreement is a tacit acknowledgment that it filed its Petition for tactical purposes seeking delay, and not because of any real concern with environmental or historic preservation issues resulting from abandonment of the Highline.¹ In its Petition to Reopen FHL alleged that the passage of ten years since the Board's September 16, 1992 decision authorizing abandonment has raised new or changed environmental and historic preservation issues that the

¹ As the Board is aware, CPO has opposed the City's request for leave to late file a CITU application for failure to demonstrate good cause for the delay, and has opposed the City's request for a CITU on the grounds that a CITU is not available in an adverse abandonment proceeding. See Chelsea Property Owners Reply To The Petition Of The City of New York To Late File A Request For Issuance Of A Certificate of Interim Trail Use, filed in this proceeding on January 13, 2003.

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Board needs to revisit. According to FHL, however, these environmental and historic preservation issues will disappear if Conrail and the City enter into a Trails Act agreement leading to rehabilitation of the Highline structure and its conversion into a North American Promenade Plantée.

The environmental and historic preservation issues raised by FHL in its Petition to Reopen will not *disappear* if Conrail and the City enter into a Trails Act agreement *because they never existed in the first place*. CPO pointed out in its Reply to FHL's Petition that in the past decade there has been little or no change in the neighborhoods through which the Highline passes so the environmental consequences of demolition of the Highline have not changed. Moreover, CPO showed that short of a grossly negligent and reckless demolition that simply ignores New York City's demolition regulations there would be no impact whatsoever on any property eligible for inclusion in the National Register of Historic Places.

It is the alternative to demolition proposed by FHL that will raise new environmental issues. CPO showed that the environmental consequences of the extensive rehabilitation of the Highline structure that would be necessary to create a New York City version of the Promenade Plantée are vastly greater than the consequences of a carefully managed and expeditious demolition that the Commission considered when it approved abandonment in 1992. The removal of hazardous lead paint from the Highline structure alone, a necessary early step in rehabilitation, would be a major project in its own right with extensive local impacts. Similarly, the construction of a "park" on the Highline structure would involve construction effects in the neighborhoods through which the Highline passes far more severe and prolonged than the demolition effects that the Commission considered in 1992, as would the impacts of the City's proposed partial rezoning of the area adjacent to the Highline.

Instead of further delaying this proceeding as FHL requests, the Board should proceed to dismiss FHL's Petition to Reopen with prejudice. The issues have been briefed and the Petition to Reopen will need to be resolved one way or the other before this matter can be brought to a final conclusion. Nothing is gained by postponing its resolution except further delay in the final conclusion of this proceeding. Moreover, the Board should move expeditiously to find that the Settlement Agreement submitted for approval on August 14, 2002, if implemented, will satisfy the September 1992 indemnity condition. CPO, the railroad interests (Conrail and CSXT) and the City agree this is the case. No purpose will be served by further delaying a Board decision on this matter.

Any delay in the resolution of these two issues which were brought before the Board in mid-August 2002 will seriously prejudice CPO. If the Board issues a CITU there will necessarily be a prolonged period of negotiation. First of all, the City will have to complete its ULURP process prior to making a deal. This process will take at least a year. Then the railroad interests must determine whether the City is indeed prepared to meet the indemnity provisions outlined to the Board by the Railroads in their January 13, 2003 Reply to the City's request for issuance of a CITU. A further issue to be determined is whether, in light of its precarious financial condition, the City can

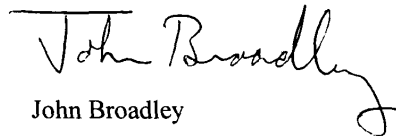
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meet these indemnity obligations. As Conrail pointed out in its Reply, the City knew of those conditions for some time before its December 17, 2002 request for the issuance of a CITU, yet its filing on that date did not indicate that the City was prepared to meet them, instead it simply recited the statutory minimum obligations it must assume under the Trails Act. The City's failure in its December 17, 2002 filing to address the railroads' indemnity conditions (of which it was well aware) suggests that, at the end of the day, the City may not be able or prepared to meet those conditions and the negotiations between the City and the railroads will collapse, having accomplished nothing but further delay in resolving this matter.

Delay in resolving this matter will prejudice not only CPO but also the railroad interests. The railroads are responsible for maintaining the Highline structure in a safe condition at least until it is either conveyed to the City pursuant to a Trails Act agreement or until the Settlement Agreement is implemented. In addition, a potentially serious environmental risk has been identified in the lead paint on the Highline structure which needs to be considered. If negotiations between the railroad interests and the City over a Trails Act agreement collapse, a prolonged period before the Settlement Agreement can be implemented will extend the overall risk to which the railroad interests are exposed. This will be especially the case if the Board does not impose the interim maintenance condition requested by CPO in its Reply to the City's request for issuance of a CITU.

In view of the uncertainty of CITU negotiations between the City and the railroads because of the City's unwillingness to meet the indemnity conditions, it would be unfair for the Board to require CPO and the railroad interests then to have to wait while the Board decides whether the Settlement Agreement satisfies the indemnity condition of the September 16, 1992 order, to wait additional time while the Board decides whether to grant the Petition to Reopen, and if it does so to wait even longer while the Board reconsiders the environmental and historic preservation issues raised by the abandonment. The Board should decide both issues as quickly as possible.

Yours very truly,


John Broadley

cc: All Parties

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of January 2003 I served a copy of the foregoing letter on all parties by depositing copies thereof in the United States mails, postage prepaid, addressed to counsel for such parties on the attached list.

John Bradley

Dated: January 23, 2003

