

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Proceedings
March 1, 2018
Part of
Public Record

STB Docket No. AB-1258

**ALLOY PROPERTY COMPANY, LLC – ADVERSE ABANDONMENT –
CHICAGO TERMINAL RAILROAD IN CHICAGO, IL**

**REPLY TO COMMENTS ON APPLICATION FOR ADVERSE
ABANDONMENT AND RESPONSE TO TRAIL USE REQUEST**

All parties to this proceeding support Alloy Property Company, LLC's ("Alloy's") Application for Adverse Abandonment ("Application"), including the City of Chicago and the Chicago Terminal Railroad ("CTM"). And all parties agree that the present and future public convenience and necessity requires abandonment of the Line,¹ which has not had local or overhead traffic since 2015, and which has no realistic current prospects for future freight service. Because this is now an uncontested proceeding, Alloy's Reply will be brief and will address three points.

First, the record overwhelmingly supports abandonment. The evidence that Alloy submitted in its Application that there is no need for rail transportation service on the Line was not contradicted by any party. CTM itself does not contest Alloy's evidence, "including Alloy's evidence that no carloads of revenue traffic have moved over the Line since May 14, 2015 and that there are no reasonable prospects

¹ As defined in the Application, the Line consists of CTM's lines in Chicago, Illinois beginning at the western side of North Elston Avenue and proceeding east and south to Goose Island to a terminus near the intersection of Chicago Avenue and Halsted Street. Application at 1 & n.1 & Ex. 1.

for developing future rail traffic over the Line.”² The City of Chicago supports the Application, observing that the Chicago Plan Commission’s land use plan for the area “recognizes that freight rail service is no longer needed on this Line to support current businesses or the Corridor’s future.”³ Local government officials and congressional representatives likewise support abandonment, noting that “Alloy’s redevelopment plans are consistent with the City of Chicago’s land-use development plans.”⁴ And local businesses and property owners similarly urged the Board to grant the Application.⁵

In short, the evidence strongly supports a finding that the public convenience and necessity requires abandonment of the Line, and the Board should issue an order that extinguishes all rail operating rights on the Line⁶ and removes the

² Chicago Terminal Railroad Co. Reply to Alloy Property Company, LLC’s Application for Adverse Abandonment, at 1 (filed Jan. 16, 2018).

³ City of Chicago Comments, at 2 (filed Oct. 20, 2017) (emphasis removed).

⁴ Letter of Support from Alderman Brian Hopkins, at 1 (filed Nov. 21, 2017); Letter of Support from Alderman Walter Burnett, Jr., at 1 (filed Nov. 21, 2017); Letter of Support from the Honorable Mike Quigley (filed Nov. 27, 2017).

⁵ Letter of Support from the Friends of Goose Island (filed Nov. 29, 2017).

⁶ CTM is the only rail carrier with operating rights over the Line, having acquired the line from Soo Line Railroad Company in 1997. *See Chicago Terminal Railroad—Acquisition and Operation Exemption—Soo Line Railroad Company d/b/a Canadian Pacific Railway*, STB Fin. Docket No. 34968, at 1 (Dec. 22, 2006) (notice of exemption to “acquire and operate a line of railroad known as the C&E Line”). However, a 1997 STB decision suggests that at one time Soo operated over part of the Line pursuant to a trackage rights agreement with CMC Heartland Partners (the corporate successor of the Chicago, Milwaukee, St. Paul and Pacific Railroad). *See Soo Line R.R. Co.—Trackage Rights Exemption—CMC Heartland Partners*, STB Fin. Docket No. 32847 (served Mar. 7, 1997). CTM purchased the Line from Soo a decade later, and CTM never entered into any trackage rights agreement with CMC. It does not appear that CMC or its successors have any remaining common carrier interest in the Line that survived CTM’s acquisition of

Board's jurisdiction from the Line (except for such residual jurisdiction that would exist if the City and CTM enter a Trail Use Agreement for part of the line).

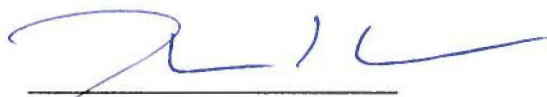
Second, Alloy has no objection to the Trail Use Request filed by the City or to the Board's issuance of a Certificate of Interim Trail Use to allow negotiations between the City and CTM for a potential Trail Use Agreement. Alloy, the City, and CTM are engaged in mutual discussions regarding future potential trail use of portions of the Line. Alloy notes that the City's Trail Use Request does not apply to sections of the Line north of West Cortland Street. The Board's final decision in this proceeding thus should (1) authorize immediate abandonment of the Line sections north of West Cortland Street and (2) issue a Certificate of Interim Trail Use permitting trail use negotiations for the remainder of the Line.

Third, Alloy respectfully requests that the Board issue a decision as expeditiously as possible. While the Board's regulations ordinarily would contemplate a decision being issued 65 days after the deadline for comments on the Application, *see* 49 C.F.R. § 1152.26(a), an expedited decision is appropriate here, where all interested parties agree that abandonment is in the public interest and where no issues are in dispute. And an expedited decision would be of great benefit to the parties. The Board's decision—and the certainty that decision will provide—is a prerequisite to further planning, zoning, and development steps that must be taken to advance Alloy's redevelopment of the former Finkl Steel plant and its

the Line from Soo. Out of an abundance of caution, however, Alloy requests that the Board authorize abandonment of the Line as to any carrier that has any remaining authorization to operate on it.

surroundings and the City's broader plans for the North Branch. It is also a prerequisite to the City's ability to proceed with its desired Trail Use Agreement. For these reasons, Alloy asks that the Board issue a decision before the § 1152.26(a) deadline if it is possible for the Board to do so.

Respectfully submitted,



Matthew J. Warren
Hanna M. Chouest
Sidley Austin LLP
1501 K Street, NW
Washington, DC 20005

*Counsel to Alloy Property
Company, LLC*

Date: March 1, 2018

CERTIFICATE OF SERVICE

I hereby certify that on March 1, 2018, I caused the foregoing Reply to Comments on Application for Adverse Abandonment and Response to Trail Use Request to be served by first class mail or more expeditious method upon the following:

John D. Heffner
Strasburger & Price, LLP
1025 Connecticut Ave., NW
Suite 717
Washington, DC 20036

David Michaud
General Counsel
Iowa Pacific Holdings, LLC
118 Southern Clinton Street
Suite 400
Chicago, IL 60661

Charles A. Spitulnik
Alison I. Fultz
Kaplan, Kirsch, Rockwell
1001 Connecticut Ave, NW
Suite 800
Washington, DC 20036



Alec Weingart