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April 9, 2004

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

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding is an
original and ten (10) copies of the Reply of FORTY PLUS
FOUNDATION / MANHATTAN CENTRAL RAILWAY SYSTEMS,
LLC, [MCRS] to the request from The City of New York
("the City") and the Chelsea Property Owners ("CPO") for a
(third) 90 day abeyance in the above referenced matter.

Kindly acknowledge receipt by date stamping the enclosed
duplicate copy of this letter and returning it in the self
addressed, stamped envelope provided.

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Enclosures

cc: All Parties of Record

Respectfully submitted,

Tomislav R. Neuman

Tomislav R. Neuman,

Executive Director

FORTY PLUS FOUNDATION &
MANHATTAN CENTRAL RAILWAY SYSTEMS, LLC

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



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**

**REPLY OF FORTY PLUS FOUNDATION / MANHATTAN CENTRAL RAILWAY SYSTEMS,
IN OPPOSITION OF THE REQUEST FROM THE CITY OF NEW YORK ("THE CITY") AND
THE CHELSEA PROPERTY OWNERS ("CPO") A THIRD "90 DAY ABEYANCE".**

**FORTY PLUS FOUNDATION &
MANHATTAN CENTRAL RAILWAY SYSTEMS, LLC
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Dated: April 9, 2004

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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**

**REPLY OF FORTY PLUS FOUNDATION / MANHATTAN CENTRAL RAILWAY SYSTEMS,
IN OPPOSITION OF THE REQUEST FROM THE CITY OF NEW YORK ("THE CITY") AND
THE CHELSEA PROPERTY OWNERS ("CPO") A THIRD "90 DAY ABEYANCE".**

MANHATTAN CENTRAL RAILWAY SYSTEMS, LLC, [MCRS] replies here to yet a 3rd request to;

*"hold this proceeding in abeyance for an additional period of ninety (90) days, and to refrain
during that period from issuing a decision with respect to the various motions now pending"*

that was filed in this proceeding by The City of New York NY ("the City") and the Chelsea Property Owners ("CPO"), on April 5, 2004. In this request, the City and CPO again replicate the want for a 3rd abeyance as originally granted by the Board in both their October 2, 2003 & January 5, 2004 based on unclear "discussions" relating to vague "not yet resolved all outstanding issues".

Unfortunately, the originally STB mandated direction for "timely presentations" has taken a very inappropriate and ill-fated non-productive twist. As members within a very concerned community the recent events of indiscriminate abeyance approval(s) (equaling 6 months now), have resulted in a *wily* "Catch 22" sequestering the STBs' primary mission "to preserve rail lines and protect rail roads", in this instance by further inhibiting the owners of this line from any productive negotiations with other parties such as MCRS for the purpose of reactivating rail service on the *Highline*.

As the Board is aware there are a number of options that are available to interested parties to affect the sale of the *Highline* for the purpose of reactivating rail service, but only with the ability to negotiate unencumbered by abeyance's and other impediment tactics that in this instance have resulted in a *de facto*

restricted access to both **the Board** and CSX/ConRail management (who as **the Board** is aware, insist that **the Board** make all final decisions regarding the disposition of this line).

The Board obviously recognizes the futility of the ICC's originally flawed "*conditional abandonment*" ruling and has directed affected parties to present briefs outlining perspective solutions to the current impasse. All parties have in fact submitted their briefs and fully expected a timely decision by **the Board**. There are no objection from MCRS restricting others from proceeding in private negotiations to advance their agendas, but our reasonable objections focus on the cunningly crafted caveats within these (3) abeyances that effectively thwarts other parties from freely negotiating with the owners of this line, or inhibits the **STB** to render timely decision(s) on briefs submitted last year.

In light of the "novel legal issues" and extraordinary chronology of this case with its current *de facto* 14+ year abeyance -- requests resulting in further delays in this proceeding would not be in the public's best interests. Both "the City" and "CPO" have it wholly within their control to effectuate their collective transaction(s) and discussion(s) either, *prior to, during and/or following* any **STB** decision regarding all submitted briefs and therefore should not be encouraged to interfere with opposing parties negotiations -- for this reason and the reasons listed above, it is not in the public's best interest to be forced to accept any additional avoidable delays in this case.

MCRS wishes to impress upon the Board our strenuous objections to any further debilitating abeyances that result in delays to **the Board's** fiduciary duties to review and respond in a timely manner to briefs submitted last year by all parties. Accordingly, "the City" and "CPOs" request for an additional abeyances should not be granted and **the Board** should encourage all parties to negotiate freely with no artificial delays or encumbrances.

Respectfully submitted,



Tomislav R. Neuman,
Executive Director

**FORTY PLUS FOUNDATION &
MANHATTAN CENTRAL RAILWAY SYSTEMS, LLC**

Dated: April 9, 2004

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of April, 2004, copies of the forgoing Notice of Intent to File Offer of Financial Assistance of the Forty Plus Foundation & Manhattan Central Railway Systems, LLC was served by first-class mail, postage prepaid, or (hand-delivery), upon all interested parties of record.


Tomislav R. Neuman