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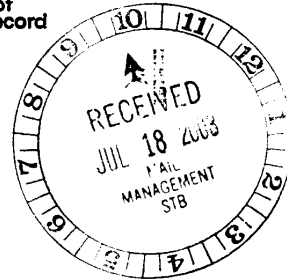
JUL 18 2003



Metropolitan Transportation Authority

State of New York

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July 16, 2003

208435

The Honorable Vernon A. Williams, Secretary
Surface Transportation Board
Attn: Docket No. AB-167 (Sub. No. 1094)A
1925 K Street N.W.
Washington, D.C. 20423-0001

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

Dear Secretary Williams:

I am enclosing for filing in the above-captioned proceeding an original and ten copies of the "Statement on Behalf of the Metropolitan Transportation Authority in Connection with the July 24, 2003 Public Hearing."

Please date-stamp and return the extra copy that is enclosed.

Very truly yours,

Anthony P. Semancik
Deputy General Counsel
(212) 878-7248

Encl.

cc: Service List

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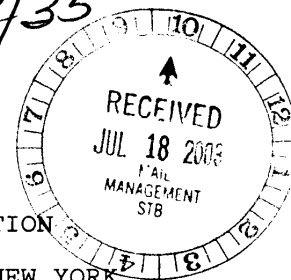
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BEFORE THE
SURFACE TRANSPORTATION BOARD

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, NEW YORK



STATEMENT ON BEHALF OF THE METROPOLITAN TRANSPORTATION AUTHORITY
IN CONNECTION WITH THE JULY 24, 2003 PUBLIC HEARING

The Metropolitan Transportation Authority of the State of New York ("MTA") is a New York State public authority that runs public mass transit in the New York City metropolitan region. MTA submits this statement of its position with respect to Conrail's West 30th Street Secondary Track (the "Highline") in the borough of Manhattan in New York City.

MTA has been an active participant in the Highline abandonment proceeding since the late 1980's. During this lengthy and still unresolved proceeding, MTA never has wavered in advocating for the abandonment of that part of the Highline structure traversing MTA's Caemmerer West Side Yard (the "West Side Yard"). The West Side Yard is a 30-acre rail storage yard on Manhattan's West Side bounded by West 33rd Street to the north, West 30th Street to the south, Tenth Avenue to the East, and Twelfth Avenue to the West. It is operated by MTA's subsidiary, the Long Island Rail Road Company ("LIRR"), and is indispensable to LIRR's commuter rail operations in and out of New York's Penn Station, the busiest commuter railroad station in the United States.

As a public transportation agency, MTA's interest in the Highline naturally is focused on public transportation issues. For reasons that we have discussed at length in our prior submissions to the ICC and STB, the Highline as a whole has no potential to be reused as a public transportation corridor for commuter rail or an elevated subway. Therefore, MTA's interest in the Highline is limited to the line's impact on MTA's West Side Yard -- particularly with respect to safety, security and MTA's ability to fully use the entire Yard without the Highline as an encumbrance.

First and foremost among our concerns is that the West Side Yard be maintained with safety and security in mind. In its current state, the Highline poses safety and security issues for LIRR. Vagrants have been known to find shelter there, and we have had ongoing problems with concrete and metal falling off the Highline and into the Yard. Moreover, while MTA takes no position on whether it is feasible to construct and operate a public pedestrian walkway over the Highline south of 30th Street, we do not believe that it would be prudent to maintain the Highline as a discreet, free-standing and publicly accessible space over the busiest commuter rail yard in the City serving the busiest commuter rail station in the nation. We do not believe that it would be safe and secure for the public, for our workers or for our rail facilities to have public use and recreation directly overhead on a free-standing, elevated rail spur.

Secondly, we are concerned about how the Highline interferes with our ability to fully use and enjoy one of our most valuable

rail and real estate assets. When MTA purchased the West Side Yard from Conrail in 1980, our deeds provided that Conrail's easement to maintain the Highline over our property would be extinguished upon its abandonment for railroad use and that Conrail would be responsible for demolishing the structure over the West Side Yard. Because the indemnity provisions in the ICC's 1992 abandonment decision have not been resolved and final abandonment has not been approved by the STB to this day, MTA never has received the benefit of that bargain. Although no rail shipments have been made over the Highline since 1982, and although the ICC in 1992 held that the public convenience and necessity favor the line's abandonment, the inability of all parties to reach agreement on satisfying the conditions set forth in the ICC's 1992 abandonment decision have stalled MTA's efforts have Conrail honor its obligation to abandon the portion of the line over the West Side Yard. As long as the Highline's future is controlled by others, MTA will not be able to fully use the Yard for commuter rail and other purposes.

Currently, MTA, as co-lead agency with the City of New York City Planning Commission, is preparing an environmental impact statement to evaluate the proposed extension of the Number 7 Line Subway to the far West Side of Manhattan, a City rezoning and development plan for the far West Side of Manhattan including the immediate vicinity of the West Side Yard area, expansion and modernization of the Jacob K. Javits Convention Center, development of a new multi-use sports, exhibition and entertainment facility, and various alternatives to these proposed actions. Although the

EIS process has just begun, it seems clear at this juncture that there is little if any public desire to maintain the Highline intact as a stand-alone structure over the West Side Yard. Irrespective of the public debate about the Highline's fate south of 30th Street, we believe that the public well understands that the Highline is not appropriate for railbanking over the West Side Yard and that its continued presence over the Yard interferes with MTA's current commuter rail uses and future development options for utilizing the air space above the Yard.

Given MTA's concerns about maintaining safety, security and control over the West Side Yard, MTA is most inclined to support a proposal for the Highline's disposition that addresses the following issues:

1. MTA Control. MTA should be able to fully control and dispose of all parts of the Highline over the West Side Yard. No interim use of the Highline over the West Side Yard should occur without MTA's prior approval. Even if the Highline is not immediately demolished, MTA should have the right to determine if, and when, it is in MTA's best interests to do so. Moreover, MTA is concerned that even maintaining an easement for the Highline through the West Side Yard for a future rail connection could interfere with MTA's use and possible future development of the Yard. Therefore, MTA would object to any rail connection easement through the Yard unless MTA has the opportunity to fully evaluate, approve and control the easement's location and use.

2. Prompt Disposition. Any disposition of the Highline should occur as soon as possible. The longer the portion of the Highline over the West Side Yard is controlled by parties other than MTA, the longer our safety, security and control issues relating to the Yard will linger.

3. Financial Responsibility. While the Highline remains standing, the entity controlling it should be fully responsible for insuring that it is safely and securely maintained. In light of MTA's deeds for the West Side Yard, in which Conrail agreed to demolish the Highline upon abandonment, any successor to Conrail and CSX also should honor that commitment to MTA.

Respectfully submitted,

METROPOLITAN TRANSPORTATION
AUTHORITY

By: 

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Dated: New York, New York
July 16, 2003

CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing are being served this 16th
day of July, 2003, by first class mail, postage pre-paid, express courier, or by
hand-delivery upon the following:

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