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OEA

SERVICE DATE – OCTOBER 4, 2011

SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423

ENVIRONMENTAL ASSESSMENT

DOCKET NO. AB-32 (Sub-No. 104X)
**Boston & Maine Corporation – Abandonment Exemption – in Rockingham
County, N.H.**

DOCKET NO. AB-355 (Sub-No. 40X)
**Springfield Terminal Railway Company – Discontinuance of Service Exemption – in
Rockingham County, N.H.**

BACKGROUND

In this proceeding, Boston and Maine Corporation (B&M) and Springfield Terminal Railway Company (ST) (collectively, “railroads”) jointly filed a notice of exemption under 49 C.F.R. § 1152.20 for B&M to abandon and ST to discontinue service over a line of railroad in Rockingham County, New Hampshire (NH). The subject rail line extends 10.0 miles between Milepost 0.0 in Portsmouth, NH and Milepost 10.0 in Hampton, NH (the “Line” or “Hampton Branch”). A map depicting the Line in relationship to the area served is appended to this environmental assessment (EA). If the notice becomes effective, B&M would be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

The Line is located in a southeastern New Hampshire approximately 3 to 4 miles from the Atlantic Ocean. Residential and commercial developments, forests and wetlands are located along the Line. The Line is a component of an approximately 16-mile-long rail line that at one time extended into neighboring Massachusetts and Maine. Construction of the Line began in 1839. The right-of-way ranges from approximately 66 to 99 feet wide.

The railroads state that no local traffic has moved over the Line for at least 2 years and there is no overhead traffic on the Line. Accordingly, the proposed abandonment would not result in the diversion of rail traffic to other modes. The railroads are not aware of any hazardous waste sites or sites where there have been hazardous material spills on the right-of-way.

ENVIRONMENTAL REVIEW

The railroads submitted an environmental report that concludes the quality of the human environment would not be affected significantly because of the abandonment or any post-

abandonment activities. The railroads served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].¹ The Board's Office of Environmental Analysis (OEA) reviewed and investigated the record in this proceeding.

Diversion of Traffic

Because there is no rail traffic on the Line, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

Salvage Activities

Rail line salvaging activities typically include the removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the right-of-way, and regrading of the right-of-way. Salvage can be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way.

For the proposed abandonment, B&M states that rail and track materials would be salvaged. However, B&M does not intend to disturb the rail bed, undertake any in-stream work, or dredge and/or use any fill materials during abandonment and salvage activities.

The railroads believe that the proposed discontinuance and abandonment would be consistent with local land use plans. The City of Portsmouth objects to the proposed abandonment unless a plan is in place for the State of New Hampshire to acquire the right-of-way. The Town of North Hampton also expressed objections to the proposed abandonment until the proposal could be reviewed further.

The Natural Resources Conservation Service (NRCS) has not responded to the railroads' environmental report. However, because of the railroads' description of the project area and limited nature of proposed salvaging activities, OEA does not anticipate that the proposed abandonment would affect resources protected under the Federal Farmland Protection Policy Act (7 U.S.C. § 4201). Nevertheless, OEA has provided a copy of this EA to the NRCS for review and comment.

The U.S. Environmental Protection Agency and NH Department of Environmental Services have not responded to the railroads' environmental report. OEA has provided a copy of this EA to both agencies for review and comment.

¹ The railroads' environmental and historic reports are available for viewing on the Board's Web site at www.stb.dot.gov by going to "E-Library," selecting "Filings," and then conducting a search for AB-32 (Sub-No. 104X).

The U.S. Fish and Wildlife Service, New England Field Office (USFWS) has not responded in writing to the proposed abandonment or to the railroads' statement that they do not believe that the proposed abandonment would have any impact on endangered or threatened species, or on any area designated as a critical habitat. Based on the information available to date, OEA is unable to determine whether any federally listed threatened or endangered species exist in the area of the proposed abandonment, which includes forests and wetlands potentially capable of supporting such species. However, due to the limited scope and temporary nature of the proposed salvage activities, OEA believes that any potential impacts to such species, if present, could be appropriately mitigated through consultation with the USFWS pursuant to Section 7 of the Endangered Species Act (ESA). Accordingly, OEA recommends that a condition be imposed, requiring the railroads to contact the USFWS prior to beginning salvage activities to discuss potential impacts to any federally listed endangered or threatened species. The railroads shall report the results of this consultation to OEA in writing. Should any potential impacts be identified, the railroads shall consult with OEA and USFWS to develop appropriate mitigation measures. OEA has provided the USFWS with a copy of this EA for review and comment.

The U.S. Army Corps of Engineers – New England District (Corps) has not responded to the railroads' environmental report. Based on the railroads' description of the Line and proposed salvaging activities, potential impacts to waters of the U.S. would not be expected and a permit under Section 404 of the Clean Water Act (33 U.S.C. § 1344) would not likely be applicable. Nevertheless, OEA has provided a copy of this EA to the Corps for review and comment.

The National Geodetic Survey (NGS) advises OEA that 12 geodetic station markers have been identified that could be affected by the proposed abandonment. Accordingly, OEA recommends a condition that requires B&M to consult with NGS and notify NGS at least 90 days prior to beginning salvage activities that could disturb or destroy the geodetic station markers.

The New Hampshire Coastal Program (NHCP) advises the railroads in a July 11, 2011 letter that the Line lies within the state's coastal zone and that the proposed abandonment is subject to a Coastal Zone Management Act (16 U.S.C. § 1451 *et seq.*) consistency review by NHCP. In a September 6, 2011 reply, the railroad's provided NHCP with a consistency certification for review and concurrence. NHCP's reply is pending, and therefore, OEA recommends a condition regarding the coastal zone consistency determination.

HISTORIC REVIEW

The railroads submitted an historic report as required by the Surface Transportation Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the New Hampshire Division of Historic Resources (the State Historic Preservation Office or SHPO), pursuant to 49 C.F.R. § 1105.8(c). In a July 6, 2011 reply, the SHPO states that the Line was determined to be eligible for listing on the National Register of Historic Places on March 13, 2002 and requests that the railroads complete a Request for Project Review form to continue the Section 106 review process. The railroads completed the form, and in an August 16, 2011 letter

to OEA, the SHPO requests continued consultation and additional information about the proposed abandonment.

Pending the outcome of these consultations and receipt of the SHPO's opinion regarding potential adverse effects from the proposed abandonment, we are recommending a condition requiring the railroads to retain their interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

Separately, the Town of Rye believes that an historic boundary marker is located somewhere on the right-of-way, but it is uncertain of the exact location.

OEA also conducted a search of the Native American Consultation Database at www.cast.uark.edu/other/nps/nacd/ to identify federally recognized tribes that may have ancestral connections to the project area. The database did not identify any tribes as having connections to Rockingham County.

CONDITIONS

In order to mitigate the potential environmental impacts from the proposed abandonment, OEA recommends that the following environmental conditions be placed on any decision granting abandonment authority:

1. Boston and Maine Corporation shall consult with the National Geodetic Survey (NGS) and notify NGS at least 90 days prior to beginning salvage activities that could disturb or destroy any geodetic station markers.
2. Boston and Maine Corporation shall contact the U.S. Fish and Wildlife Service, New England Field Office (USFWS) prior to beginning salvage activities to discuss potential impacts to any federally listed endangered or threatened species. The railroad shall report the results of this consultation to the Board's Office of Environmental Analysis (OEA) in writing. Should any potential impacts be identified, the railroad shall consult with OEA and USFWS to develop appropriate mitigation measures.
3. Boston and Maine Corporation shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, has been completed. Boston and Maine Corporation shall report to the Board's Office of Environmental Analysis regarding any consultations with New Hampshire Division of Historic Resources (the State Historic Preservation Office or SHPO) and the public. Boston and Maine

Corporation may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition.

4. Pursuant to the Coastal Zone Management Act (16 U.S.C. § 1451 et seq.) and the Board's environmental regulations at 49 C.F.R. § 1105.9, Boston and Maine Corporation shall consult with the New Hampshire Coastal Program office and obtain state coastal management consistency certification. Boston and Maine Corporation may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until it reports the results of these consultations in writing to the Board's Office of Environmental Analysis and the Board has removed this condition.

CONCLUSIONS

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions were imposed, abandonment of the Line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations and no salvage activities), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within the time specified in the Federal Register notice. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Assistance, Governmental Affairs, and Compliance (OPAGAC) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPAGAC directly at 202-245-0238, or mail inquiries to Surface

Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

COMMENTS

If you wish to file comments regarding this environmental assessment, please send an **original and one copy** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Dave Navecky, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's web site, www.stb.dot.gov, by clicking on the "E-FILING" link. **Please refer to Docket No. AB-32 (Sub-No. 104X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this environmental assessment, please contact Dave Navecky, the environmental contact for this case, by phone at 202-245-0294, fax at 202-245-0454, or e-mail at david.navecky@stb.dot.gov.

Date made available to the public: October 4, 2011.

Comment due date: October 18, 2011.

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment