

have used alternate transportation services for at least seven years and a major highway is located adjacent to the line. Should the Board grant abandonment authority here, Kershaw states that it will proceed in state court to obtain control of the property. This agency and its predecessor have long held that granting an adverse abandonment application would remove this agency's primary jurisdiction over the line, thereby subjecting the line to actions under state law.<sup>1</sup>

In a decision served in this proceeding on February 6, 2004, Kershaw was granted a waiver from some of the filing requirements of the Board's abandonment regulations at 49 CFR 1152 that were not relevant to its adverse abandonment application or that sought information not available to it. Specifically, Kershaw was granted waiver from the notice requirements at 49 CFR 1152.20(a)(2)(xii) and (a)(3), from the application requirements at 49 CFR 1152.22(a)(4), (a)(5), and (d), and from the consummation time periods at 49 CFR 1152.29(e)(2).<sup>2</sup>

Kershaw states that the line does not contain federally granted rights-of-way. Any documentation in Kershaw's possession will be made available promptly to those requesting it. The applicant's entire case in chief for abandonment was filed with the application.

The railroad has no employees on the line. Accordingly, there are no railroad employee interests that require labor protection.

Any interested person may file written comments concerning the proposed abandonment or protests (including protestant's entire opposition case) by March 12, 2004. All interested persons should be aware that, following any abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 U.S.C. 10905 (49 CFR 1152.28) or for a trail use condition under 16 U.S.C. 1247(d) (49 CFR 1152.29) must be filed by March 12, 2004. Each trail use request must be

accompanied by a \$150 filing fee. See 49 CFR 1002.2(f)(27).

The line sought to be abandoned will be available for subsidy or sale for continued rail use, if the Board decides to permit the abandonment, in accordance with applicable laws and regulations (49 U.S.C. 10904 and 49 CFR 1152.27). No subsidy arrangement approved under 49 U.S.C. 10904 shall remain in effect for more than 1 year unless otherwise mutually agreed by the parties (49 U.S.C. 10904(f)(4)(B)). Applicant will promptly provide upon request to each interested party an estimate of the subsidy and minimum purchase price required to keep the line in operation.

Persons opposing the proposed adverse abandonment who wish to participate actively and fully in the process should file a protest. Persons who may oppose the abandonment but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Parties seeking information concerning the filing of protests should refer to section 1152.25.

All filings in response to this notice must refer to STB Docket No. AB-600 and must be sent to: (1) Surface Transportation Board, 1925 K Street, NW., Washington, DC 20424-0001; and (2) Sarah Wixson, Velikanje, Moore and Shore, P.S., 405 East Lincoln Ave., P.O. Box 22550, Yakima, WA 98907. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in section 1152, every document filed with the Board must be served on all parties to the abandonment proceeding. 49 CFR 1104.12(a).

The waiver decision noted that Kershaw had sought a waiver from the environmental requirements at 49 CFR 1152.22(f), arguing that this abandonment would not significantly alter the condition of the surrounding land and environment. However, the Board denied this request. It noted that, because Kershaw had already submitted the required environmental documentation to the Board's Section of Environmental Analysis (SEA), a waiver was not needed.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact SEA. EAs in abandonment or discontinuance proceedings normally

will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to SEA at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.]

Board decisions and notices are available on our Web site at "<http://www.stb.dot.gov>."

Decided: February 6, 2004.

By the Board, David M. Konschnik,  
Director, Office of Proceedings.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 04-3218 Filed 2-12-04; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-32 (Sub-No. 97X); STB Docket No. AB-355 (Sub-No. 29X)]

#### **Boston and Maine Corporation— Abandonment Exemption—in Middlesex County, MA; Springfield Terminal Railway Company— Discontinuance of Service Exemption—in Middlesex County, MA**

Boston & Maine Corporation (B&M) and Springfield Terminal Railway Company (ST) have filed a notice of exemption under 49 CFR part 1152 Subpart F—*Exempt Abandonments and Discontinuances* for B&M to abandon and ST to discontinue service over a line of railroad, known as the Tewksbury Branch, extending from milepost 0.0 to milepost .75, in Middlesex County, MA. The line traverses United States Postal Service Zip Code 01876.

B&M and ST have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period;

<sup>1</sup> See *Modern Handcraft, Inc.—Abandonment*, 363 I.C.C. 969 (1981); *Kansas City Pub. Ser. Frgt. Operations Exempt.—Aban.*, 7 I.C.C.2d 216, 224-26 (1990); and *Chelsea Property Owners—Aban.—The Consol. R. Corp.*, 8 I.C.C.2d 773, 778 (1992), *aff'd sub nom. Conrail v. ICC*, 29 F.3d 706 (D.C. Cir. 1994).

<sup>2</sup> Because Kershaw had already satisfied a number of provisions for which it had requested a waiver, some of its waiver requests were denied as unnecessary. A fee waiver request had been denied earlier by the Board's Secretary and applicant was directed to comply with the provisions of 49 CFR 1152.24(f).

and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to these exemptions, any employee adversely affected by the abandonment or discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on March 17, 2004,<sup>1</sup> unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>2</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>3</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by February 23, 2004. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by March 4, 2004, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to applicants' representative: Katherine E. Potter, Esq., Iron Horse Park, North Billerica, MA 01862.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

B&M and ST have filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by February 20, 2004. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface

Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), B&M shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by B&M's filing of a notice of consummation by February 13, 2005, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at [www.stb.dot.gov](http://www.stb.dot.gov).

Decided: February 5, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 04-3094 Filed 2-12-04; 8:45 am]

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Form 5303

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5303, Application for Determination for Collectively Bargained Plan.

**DATES:** Written comments should be received on or before April 13, 2004 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn Kirkland Internal Revenue

Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

#### **FOR FURTHER INFORMATION CONTACT:**

Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622-3179, or through the Internet at ([Larnice.Mack@irs.gov](mailto:Larnice.Mack@irs.gov)).

#### **SUPPLEMENTARY INFORMATION:**

*Title:* Application for Determination for Collectively Bargained Plan.

*OMB Number:* 1545-0534.

*Form Number:* 5303.

*Abstract:* Form 5303 is used to request a determination letter from the IRS for the qualification of a defined benefit or a defined contribution plan and the exempt status of any related trust. The form provides the IRS with the information necessary to verify that the employer has a qualified plan and may make tax deductible contributions to it.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses or other for-profit organizations, and individuals.

*Estimated Number of Respondents:* 2,500.

*Estimated Time Per Respondent:* 35 hours, 17 minutes.

*Estimated Total Annual Burden Hours:* 88,200.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

#### **Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the

<sup>1</sup> Pursuant to 49 CFR 1152.50(d)(2), the railroad must file a verified notice with the Board at least 50 days before the abandonment or discontinuance is to be consummated. While the applicant initially indicated a proposed consummation date of March 16, 2004, because the verified notice was filed on January 27, 2004, consummation may not take place prior to March 17, 2004.

<sup>2</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>3</sup> Each OFA must be accompanied by the filing fee, which currently is set at \$1,100. See 49 CFR 1002.2(f)(25).