



ENTERED
Office of Proceedings

JAN 13 2003

Part of
Public Record

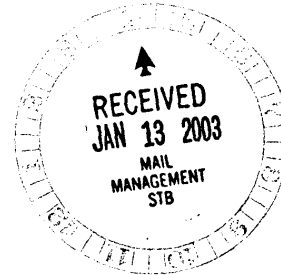
207037

January 13, 2003

311 Main Street, P.O. Box 15156
Worcester, MA 01615-0156
Telephone: (508) 791-3511
Facsimile: (508) 756-7636
www.bowditch.com

Bowditch & Dewey, LLP

Direct dial: (508) 926-3400
Direct fax: (508) 929-3012
rcox@bowditch.com



By Fax and Federal Express

The Honorable Vernon A. Williams
Secretary, Surface Transportation Board
Mercury Building, Room 700
1925 K Street, N.W.
Washington, D.C. 20423

**Re: Financial Docket No. 34281 - LB Railco, Inc. - Lease and Operation
Exemption - Providence and Worcester Railway Company**

Dear Secretary Williams:

We are legal counsel for the National Solid Wastes Management Association, Jet-A-Way, Inc., and New Bedford Wastes Services, LLC (the "Industry Parties"). By letter dated January 2, 2003, LB Railco, Inc. ("LB Railco") requested an extension of time to file a reply to the submittals of the Industry Parties and the Town of Millbury (the "Town"). On January 6, 2003, the Surface Transportation Board (the "Board") granted LB Railco's request and set a deadline of January 17, 2003, for LB Railco to file a reply. We are writing on behalf of the Industry Parties to bring to the Board's attention that LB Railco's anticipated "reply" to the Industry Parties' submission would be a reply to a reply. This is specifically prohibited by 49 CFR § 1104.13(c) and we are therefore requesting that the Board clarify its January 6, 2003 Decision.

In a Decision dated November 22, 2002, the Board stayed LB Railco's Notice of Exemption. In response, LB Railco submitted a request to lift the stay, dated December 10, 2002. On December 17, 2002, the Industry Parties submitted their Reply to LB Railco's petition to lift stay.¹ On December 30, 2002, the Industry Parties supplemented their Reply with a Verified Statement.

¹ The complete title of the Industry Parties' December 17, 2002 submittal is: "Reply to LB Railco, Inc.'s petition to lift stay and motion to dismiss notice of exemption on the ground that waste handling operations of LB Railco, Inc. are not subject to exemption under 10501(b) of the ICCTA, or alternatively, motion to require a firm impact statement pursuant to 40 CFR § 1105.5(d) not account of the probability of significant environmental impacts."

{J:\CLIENTS\env\302692\0001\00332057.DOC;2}

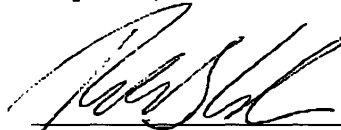
The Honorable Vernon A. Williams
January 13, 2003
Page 2

In its request for an extension, LB Railco characterized the Industry Parties' December 17, 2002 submittal as a "motion." The Industry Parties' December 17, 2002 submittal, however, was not a motion. This submittal was provided to the Board as a reply to LB Railco's petition to lift the stay. The Board's Rules of Practice provide that "a reply to a reply is not permitted." 49 CFR § 1104.13(c). As such, the Board's January 6, 2003, Decision extending the time for LB Railco to submit a reply should not be deemed to authorize LB Railco to submit a reply to the Industry Parties' reply.

For these reasons, the Industry Parties respectfully request that the Board issue an order clarifying its January 6, 2003, Decision to state that while LB Railco may file a reply to the Town's motion no later than January 17, 2003, the Board's January 6, 2003, Decision does not authorize LB Railco to submit a reply to the Industry Parties' Reply, dated December 17, 2002.

In accordance with the Board's requirements, an original of this document and 10 copies are submitted herewith and copies are being served upon the representatives of parties identified below.

Respectfully Submitted,



Stephen M. Richmond, Esq. (BBO #546206)

Robert D. Cox, Jr., Esq. (BBO #546486)

Bowditch & Dewey, LLP

161 Worcester Road

Framingham, MA 01701-9320

Telephone: (508) 416-2410

Facsimile: (508) 929-3024

RDCJr/igm
Enclosures

cc: John F. McHugh, Esq. (w/encls. by fax and first class mail)
Mary Jude Pigsley, Esq. (w/encls. by fax and first class mail)
John J. Goldrosen Esq. (w/encls. by fax and first class mail)
Michael Creasey (w/encls. by fax and first class mail)

The Honorable Vernon A. Williams
January 13, 2003
Page 3

CERTIFICATION OF SERVICE

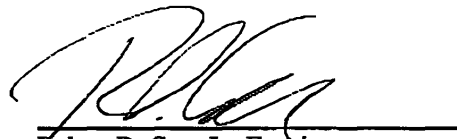
I hereby certify that I have this 3rd day of January, 2003 served copies of the foregoing upon the following parties of record in this proceeding by fax and first class mail, postage pre-paid, in accordance with the rules of practice of the Surface Transportation Board:

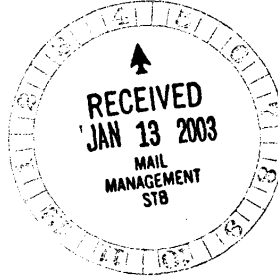
John F. McHugh, Esq.
6 Water Street, Suite 401
New York, NY 10004

Mary Jude Pigsley, Esq.
Senior Regional Counsel
Massachusetts Department of Environmental Protection
627 Main Street
Worcester, MA 01608

John J. Goldrosen, Esq.
Kopelman & Paige, P.C.
31 St. James Avenue
Boston, MA 02116-4102

Michael Creasey
Blackstone River Valley National Heritage Corridor Commission,
One Depot Square
Woonsocket, RI 02895


Robert D. Cox, Jr., Esquire



311 Main Street, P.O. Box 15156
Worcester, MA 01615-0156
Telephone: (508) 791-3511
Facsimile: (508) 756-7636
Federal I.D. # 04 2297674

www.bowditch.com

Bowditch & Dewey, LLP

Direct telephone: 508-926-3408
Direct facsimile: 508-929-3012
Email: rcox@bowditch.com

FACSIMILE TRANSMITTAL SHEET

TO:		FAX NUMBER:	
Honorable Vernon A. Williams		(202) 565-9004	
CC:			
John F. McHugh, Esquire	(212) 483-0876		
Mary Jude Pigsley, Esquire	(508) 792-7621		
John J. Goldrosen, Esquire	(617) 654-1735		
Mr. Michael Creasey	(401) 762-0530		
DATE:		PHONE NUMBER:	
January 13, 2003			
FROM:		TOTAL NO. OF PAGES INCLUDING COVER:	
Robert D. Cox, Jr., Esquire			
RE:		CLIENT/MATTER NUMBER:	
LB Railco, Inc. - Lease and Operation Exemption		302692.0001	
URGENT	FOR REVIEW	PLEASE COMMENT	PLEASE REPLY

CONFIDENTIALITY NOTE

The documents accompanying this facsimile transmission contain information from the law firm of Bowditch & Dewey, LLP which is confidential and/or privileged. The information is intended to be for the use of the individual or entity named on this transmission sheet. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this faxed information is prohibited. If you have received this facsimile in error, please notify us by telephone immediately so that we can arrange for the retrieval of the original documents at no cost to you.

If you do not receive all pages or receive this fax in error, please call Irene at 508-926-3345.

{J:\CLIENTS\env\302692\0001\00333137.DOC;1}