

John H. Chafee

BLACKSTONE RIVER VALLEY

National Heritage Corridor Commission



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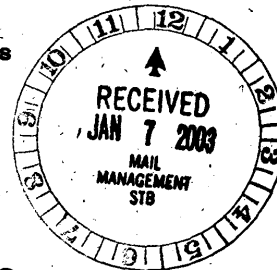
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The Honorable Vernon A. Williams, Secretary
Surface Transportation Board
Mercury Building, Room 700
1925 K Street, N.W.
Washington, D.C. 20423

Re: Finance Docket No. 34281: LB Railco, Notice of Exemption

Dear Secretary Williams:

The John H. Chafee Blackstone River Valley National Heritage Corridor Commission has received a copy of LB Railco's reply dated December 10, 2002 to the motions of the Massachusetts Department of Environmental Protection to reject the "Notice of Exemption" and the motion of the Town of Millbury, Massachusetts to stay the effect of the "Notice of Exemption" filed with the Surface Transportation Board. The Corridor Commission would like to comment on this document since LB Railco is requesting the STB to deny the pending motions and lift the stay in order that the rail operation be allowed to proceed.

After reviewing the Petitioner's document and 49 CFR 1105.6 and 1105.7, the Commission believes that there are several reasons why the stay should remain in effect and an Environmental Impact Statement be prepared for this operation. The petitioner notes that the Notice filed is a proceeding under 49 USC 10902 rather than 10901, which covers a category of transactions that usually do not require environmental documentation; therefore, they argue that the transaction is so limited it would have "no significant impact on the environment." However, 49 CFR Sec. 1105.6 (d) provides that the Board may "reclassify or modify these requirements for individual proceedings. For actions that generally require no environmental documentation, the Board may decide that a particular action has the potential for significant environmental impacts and that, therefore, the applicant should provide an environmental report and either an EA or an EIS will be prepared."

The Corridor Commission believes that several legitimate concerns have already been raised relative to the proposed operation's proximity to the Blackstone River, namely stormwater runoff and erosion from uncontainerized solid waste, and development of a



solid waste facility within a Zone II of an existing water supply well and within a 100-year flood zone. Without understanding the potential of these site factors to affect the Blackstone River or other Corridor resources, one could not conclude, as LB Railco does, that a waste transfer facility in this location would have "no significant impact on the environment". A more reasonable conclusion would be that the project poses significant potential environmental impacts, better estimations of which can only be determined by a thorough environmental review process.

From information provided by LB Railco, we have additional concerns about the proposed operation exceeding the threshold levels outlined in 49 CFR 1105.7 for requiring an Environmental Report. Specifically, under 1105.7 (e) (5), if the activity will cause an increase in rail yard activity of at least 100 percent (measured by carload activity), or if the average increase in truck traffic exceeds 10 percent of the daily traffic or 50 vehicles a day on any road segment, the applicant must quantify the anticipated effect on air emissions. In both cases, the Petitioner exceeds these thresholds. There is no existing rail activity at the proposed location, so any future activity would represent more than 100% increase. Also, in Exhibit A, Attachment 5, page 2, of LB Railco's recent submittal, the Petitioner states that the proposed facility is expected to generate "approximately 132 vehicle trips per day". That number exceeds the threshold by more than 150%.

An additional concern is referenced in 49 CFR 1105.7 (e) (5) (ii) regarding proposed actions affecting nonattainment areas under the Clean Air Act. In 1994, the proposed location was studied through an EIS/EIR for the Route 146/Massachusetts Turnpike Interchange Project which is now under construction. The highway corridor, which includes the proposed LB Railco site, was deemed a nonattainment area. In nonattainment areas, any expected increase in emissions must be quantified to determine whether they are within the parameters of the State Implementation Plan. Without a detailed analysis of emissions data for existing and expected conditions, one cannot determine conformance with the State Implementation Plan.

One final comment in addition to those cited above and in previous correspondence is the designation of the Blackstone River as a American Heritage River. The federal designation is one of only fourteen throughout the nation whereby these select rivers receive priority attention by federal agencies to address the complex issues facing river systems. The Corridor Commission, with the National Park Service, is collaborating with the US Environmental Protection Agency (as the lead agency), the Army Corps of Engineers, the US Fish and Wildlife Service and others, including the US Department of Transportation, to improve the river's health and revitalize the historic Corridor. Establishing an environmental review process for the LB Railco operation at the Millbury site would allow for a coordinated review for the federal agencies, the Town and other organizations which have invested heavily in the recovery of the Blackstone River, and ensure an opportunity to properly consider potential impacts as well as other possible sites.



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In response to an error identified by the Petitioner, the Corridor Commission stands corrected in its initial assertion that portions of the development were within 50 feet of the river. Staff was forwarded a plan (not by the Petitioner) at a scale of 100 feet to the inch that was apparently reduced in size, therefore changing the accuracy of the scale. Our understanding of other factors, including the queuing of trucks along the 50 foot buffer, however, does not allay the Commission's concerns for potential impacts to Corridor resources.

To address a point raised in the Preliminary Statement of LB Railco's December 10, 2002 reply, the Commission is not opposed to the transfer of solid waste from truck to rail. In fact, we can appreciate the merits of conserving land that would be used for additional landfills by hauling waste elsewhere. Instead we are interested in the operation (under the jurisdiction of a federal entity) only as it relates to the potential impacts to Corridor resources and the process by which the operation and its chosen site are examined.

Thank you for this opportunity to comment pursuant to Section 9 of Public Law 99-647. If you have any questions regarding this letter, please feel free to contact me.

Sincerely,

Michael Creasey
Executive Director

Cc: Anthony R. Conte, Counsel US Dept. of Interior
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Senator Richard T. Moore, Chairman, BRVNHC