



307492

ENTERED
Office of Proceedings
November 16, 2023
Part of
Public Record

Justin J. Marks
T (202) 772-0916
F +12027720919
Email: jmarks@ClarkHill.com

Clark Hill
1001 Pennsylvania Avenue N.W.
Suite 1300 South
Washington, DC 20004
T (202) 772-0909
F (202) 772-0919

November 16, 2023

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

Re: Massachusetts Coastal Railroad, LLC
– Acquisition and Operation Exemption –
Bay Colony Railroad Corporation
Surface Transportation Board Finance Docket 36739

Dear Ms. Brown:

Enclosed for filing in the above referenced docket is a verified notice of exemption filed under 49 U.S.C. § 10902. The filing fee has been paid via pay.gov.

Sincerely,

A handwritten signature in blue ink that reads 'Justin J. Marks'.

Justin J. Marks
Counsel to Massachusetts Coastal Railroad, LLC

Enclosure

FEE RECEIVED
November 16, 2023
Surface
Transportation Board

FILED
November 16, 2023
Surface
Transportation Board

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36739

MASSACHUSETTS COASTAL RAILROAD, LLC
– ACQUISITION AND OPERATION EXEMPTION –
BAY COLONY RAILROAD CORPORATION

VERIFIED NOTICE OF EXEMPTION
UNDER 49 U.S.C. §10902

(includes color images)

Eric M. Hocky
Clark Hill PLC
Two Commerce Square
2001 Market St.
Suite 2620
Philadelphia, PA 19103
(215) 640-8523
ehocky@clarkhill.com

Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
(202) 772-0916
jmarks@clarkhill.com

*Attorneys for Massachusetts Coastal
Railroad, LLC*

Dated: November 16, 2023

Before the
SURFACE TRANSPORTATION BOARD

STB Docket No. FD 36739

MASSACHUSETTS COASTAL RAILROAD, LLC
– ACQUISITION AND OPERATION EXEMPTION –
BAY COLONY RAILROAD CORPORATION

VERIFIED NOTICE OF EXEMPTION
UNDER 49 U.S.C. §10902

Massachusetts Coastal Railroad, LLC (“Mass Coastal”), a Class III railroad, files this Notice of Exemption under 49 U.S.C. § 10902 to exempt from regulation Mass Coastal’s acquisition from Bay Colony Railroad Corporation (“Bay Colony”), and the operation as a common carrier, of approximately 5.92 miles of rail line between milepost QND 0.08 and milepost QND 6.00, (the “Rail Line”) in Bristol County, Massachusetts. Mass Coastal is purchasing the assets comprising the Rail Line and will assume, via assignment, the lease for the underlying real property.

A map of the Rail Line is included as Exhibit A.

Notice

In accordance with 49 C.F.R. §1150.43, Mass Coastal hereby provides the following information:

- (a) The full name and address of Applicant: Mass Coastal Railroad, LLC, 200 Myles Standish Boulevard, Suite 3, Taunton, MA 02780.

(b) Applicant's Representatives:

Eric M. Hocky
Clark Hill PLC
Two Commerce Square
2001 Market St.
Suite 2620
Philadelphia, PA 19103
(215) 640-8523
ehocky@clarkhill.com

Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
(202) 772-0916
jmarks@clarkhill.com

- (c) Mass Coastal has entered into an agreement with Bay Colony (the "Agreement") under which Mass Coastal will acquire the assets comprising the Rail Line and will assume, via assignment, the lease for the underlying real property.
- (d) The current operator of the Rail Line is Bay Colony.
- (e) Brief Summary of the Proposed Transaction:

Mass Coastal is purchasing the assets comprising the Rail Line and will assume, via assignment, the lease for the underlying real property. The underlying property is currently owned by Massachusetts Department of Transportation ("MassDOT").¹ Mass

¹ The Bay Colony lease was previously with the prior owner of the real property, CSX Transportation, Inc. ("CSXT"). *See Bay Colony Railroad Corporation – Acquisition and Operation Exemption – CSX Transportation, Inc. as Operator for New York Central Lines, LLC*, STB Finance Docket No. 34446 (served January 16, 2004), fn 1. The real property was acquired, and the lease assumed, by MassDOT in 2009. *See Massachusetts Department of Transportation – Acquisition Exemption – Certain Assets of CSX Transportation, Inc.*, STB Finance Docket No. 35312 (served December 10, 2009), fn1.

Coastal currently has authority to operate the lines connected to both ends of the Rail Line.

- (1) The name of the transferor is Bay Colony Railroad Corporation. The address of Bay Colony is c/o Seminole Gulf Railway, L.P., 4110 Centerpointe Drive, Suite 207, Fort Myers, FL 33916.
- (2) Mass Coastal will consummate the transaction on or after the effective date of this Notice, thirty days after filing.
- (3) The mileposts of the Rail Line are milepost QND 0.08 and milepost QND 6.00.
- (4) The total route miles to be acquired and operated is approximately 5.92 miles.
- (f) Attached as Exhibit A to this Notice of Exemption is a map of the Rail Line showing the general location of the Rail Line.
- (g) Mass Coastal certifies that its projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III carrier.
- (h) Mass Coastal certifies that the Agreement does not include an interchange commitment.
- (i) In addition to the information set forth above, Mass Coastal certifies that its annual operating revenues after the transaction will not exceed \$5,000,000.

Labor Protection

Mass Coastal is a Class III carrier and pursuant to 49 U.S.C. §10902(d), approval of this transaction may not be subject to labor protection conditions.

Environmental and Historic Reports

Pursuant to 49 C.F.R. §1105.6(c)(2), no environmental documentation should be required because this proceeding involves authority for an agreement for acquisition that will allow for continued rail operations that will not exceed the thresholds established in 49 C.F.R. §1105.7(e)(4) or (5).

No historic report under 49 C.F.R. §1105.8(b)(1) should be required because the transaction merely involves a transfer of the Rail Line with no changes in the level of rail operations and further Board approval is required for Mass Coastal to abandon or discontinue service on the Rail Line. Mass Coastal has no plans to dispose of or alter properties subject to the Board's jurisdiction that are 50 years old or older.

Caption Summary

Attached hereto as Exhibit B is the caption summary required by 49 C.F.R. §1150.44.

Conclusion

Accordingly, Mass Coastal requests that the Board issue a notice allowing it to acquire the Rail Line effective 30 days after the date of filing of this notice of exemption.

Respectfully submitted,



Eric M. Hocky
Clark Hill PLC
Two Commerce Square
2001 Market St.
Suite 2620
Philadelphia, PA 19103
(215) 640-8523
ehocky@clarkhill.com

Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave. N.W.
Suite 1300 South
Washington, DC 20004
(202) 772-0916
jmarks@clarkhill.com

*Attorneys for Massachusetts Coastal Railroad,
LLC*

Dated: November 16, 2023

VERIFICATION

I hereby verify on behalf of Massachusetts Coastal, Railroad, LLC, under penalty of perjury, that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this Verification.

Executed on November 16th, 2023.



P. Christopher Podgurski, President

EXHIBIT A

MAP

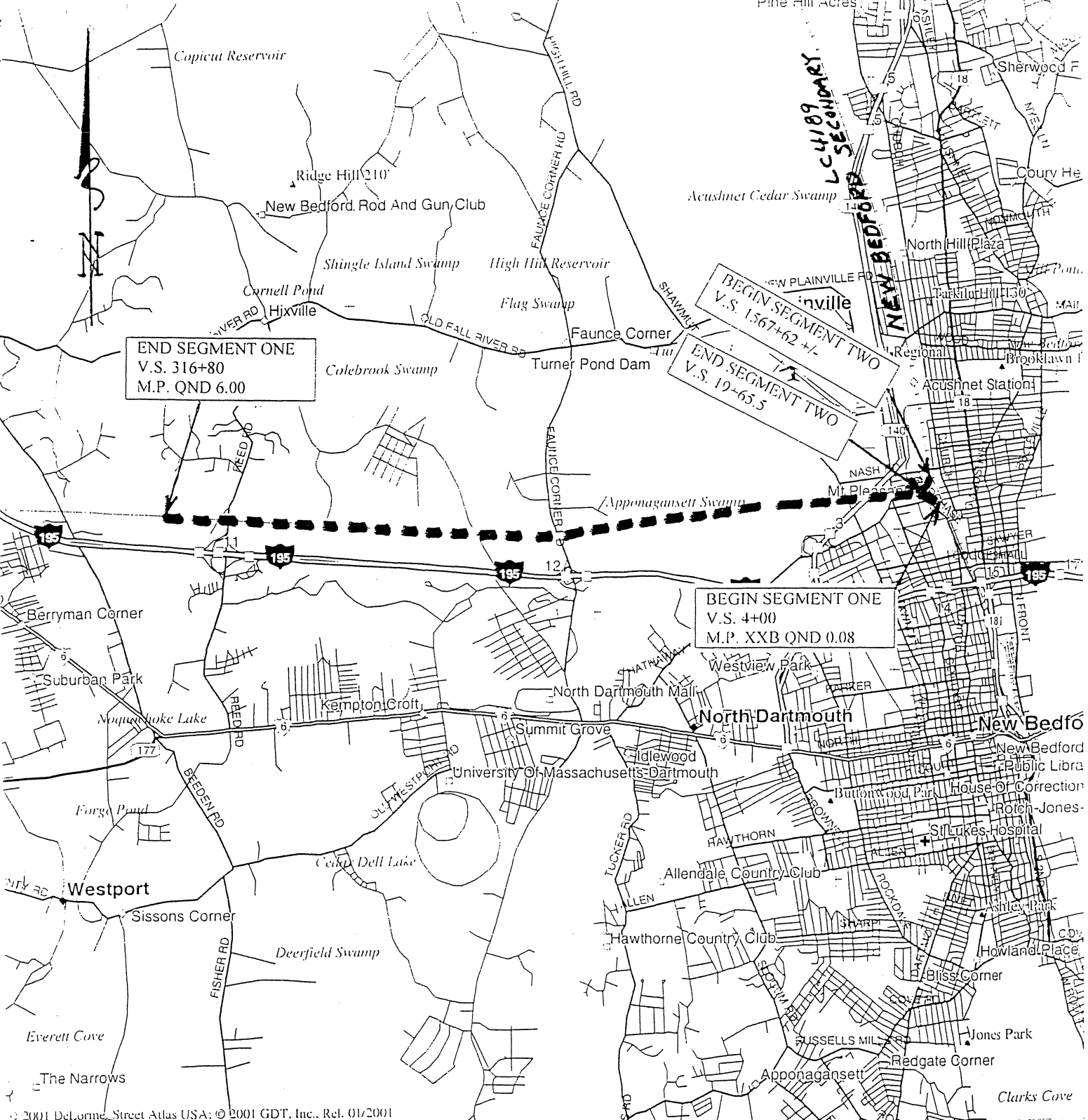


EXHIBIT B

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

Notice of Exemption

STB Docket No. FD 36739

**MASSACHUSETTS COASTAL RAILROAD, LLC
– ACQUISITION AND OPERATION EXEMPTION –
BAY COLONY RAILROAD CORPORATION**

VERIFIED NOTICE OF EXEMPTION

Massachusetts Coastal Railroad, LLC (“Mass Coastal”), a Class III railroad, files this Notice of Exemption under 49 U.S.C. § 10902 to exempt from regulation Mass Coastal’s acquisition from the Bay Colony Railroad Corporation, and the operation as a common carrier, of approximately 5.92 miles of rail line between milepost QND 0.08 and milepost QND 6.00, (the “Rail Line”) in Bristol County, Massachusetts. Mass Coastal is purchasing the assets comprising the Rail Line and will assume, via assignment, the lease for the underlying real property.

Comments must be filed with the Board and served on Mass Coastal’s representative, Justin Marks, Clark Hill, 1001 Pennsylvania Ave. N.W., Suite 1300 South, Washington, DC 20004, (202) 772 0916, jmarks@clarkhill.com.

The Notice is filed under 49 C.F.R. §1150.41. If the Notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. §10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Board decisions and notices are available at www.stb.gov.

Decided: _____, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.