

*File Copy*

March 2, 1982

- A. G. Dustin
- W. J. Renniecke
- V. R. Terrill
- M. V. Smith
- P. W. Carr
- S. B. Culliford
- E. J. Marrs
- B. E. Rice

- In re:      (1) ICC No. AB-32 (Sub No. 17)  
Abandonment and discontinuance  
of operations, Segment Portland  
Main Line East Route, Newburyport,  
MA to Seabrook, NH
- (2) ICC No. AB-32 (Sub No. 18)  
Abandonment, Amesbury Branch, MA

Attached copies of Commission's decisions in above-captioned matters, decided February 23, 1982, served February 25, 1982, recommending to the Bankruptcy Court authorization for abandonment and discontinuance of operations.

S. Weinberg

SW/mon  
Attachment

EC

INTERSTATE COMMERCE COMMISSION

SERVICE DATE

REPORT

FEB 25 1982

RECEIVED

MAR 1 1982

LAW DEPT.

Docket No. AB-32 (Sub-No. 17)

ROBERT W. MESERVE AND BENJAMIN H. LACY  
TRUSTEES OF THE BOSTON AND MAINE CORPORATION - ABANDONMENT AND  
DISCONTINUANCE (PORTION) - PORTLAND MAIN LINE EAST ROUTE

Docket No. AB-32 (Sub-No. 18)

ROBERT W. MESERVE AND BENJAMIN H. LACY  
TRUSTEES OF THE BOSTON AND MAINE CORPORATION - ABANDONMENT -  
AMESBURY BRANCH

Decided: February 23, 1982

The Trustees of the Boston and Maine Corporation (B&M) filed these proposals (1) to abandon a segment of its Portland Main Line East Route (Portland Route) extending approximately 1.26 miles between Milepost B41.44 and Milepost B42.70 in the Town of Seabrook, Rockingham County, NH and to discontinue service over an adjoining segment of the Portland Route extending approximately 3.94 miles between Milepost B41.44 in the Town of Salisbury, MA, and Milepost B37.50 in the Town of Newburyport, Essex County, MA<sup>1/</sup> and (2) to abandon its Amesbury Branch extending approximately 3.71 miles between Milepost 0.0 in the Town of Salisbury (where it connects with the Portland Route) and Milepost 3.71 in the Town of Amesbury, Essex County, MA.

These proposals are governed by the Milwaukee Railroad Restructuring Act, 45 U.S.C. 900 et. seq. (MRR). The B&M's Reorganization Court directed us to report pursuant to 11 U.S.C. 1170(b) on these proposals by March 1, 1982. In compliance with the Court's directives, we submit this report recommending that the Court authorize the abandonments.

B&M's applications are being handled under our procedures in Sub-Part F of 49 CFR 1121, promulgated in Ex Parte No. 274 (Sub-No. 4), Abandonment Procedures for Bankrupt Railroads, 360 I.C.C. 615 (1979). Under these procedures, B&M is not required to prefile a system diagram map or comply with publishing and posting requirements. B&M certified that it served copies of the applications on appropriate State officials and agencies. B&M is not required to file environmental information because Section 19 of MRR exempts B&M abandonments from the National Environmental Policy Act.

Under 11 U.S.C. 1170(a), the Court may authorize these abandonments if they are determined to be in the best interest of B&M's estate or essential for the formation of a reorganization plan, and if they are found not to unduly or adversely affect the public interest.

---

1/ The segment of the Portland Route in Massachusetts is owned by the Massachusetts Bay Transportation Authority. B&M operates the line under an easement.

PUBLIC INTEREST

We believe abandonment of these lines is consistent with the public interest. B&M has performed no operations over the 5.20 mile portion of the Portland Route for the past 5 years because there has been no demand for service. The line is below minimum Federal Railroad Administration (FRA) Class I standards. B&M's cost to rehabilitate the line to meet FRA Class I standards is estimated to be \$1,213,326.

The Massachusetts Department of Public Works supports B&M's proposal to discontinue operations over the Portland Route at Salisbury, MA. Discontinuance by B&M would enable the Department to avoid an estimated \$1.5 million for rehabilitation and maintenance expenses for two highway bridges at Salisbury.

The Amesbury Branch has not been operated by B&M for the past 5 years. The line is below minimum FRA Class I standards and has been embargoed since August 1, 1980. B&M's cost to restore the line to FRA Class I operating condition is estimated to be \$146,235.

BENEFITS TO ESTATE

Abandonment of these lines would benefit B&M's estate. B&M would no longer be obligated to incur expenses for maintenance and rehabilitation of these lines. It would also be able to reinvest the \$160,182 assets it has tied up in the lines in its reorganized system or use the assets to pay the debts.

LABOR PROTECTION

The only objection to the abandonment proposals has been submitted by the Railroad Labor Executives' Association (RLEA). RLEA requests that if abandonments are authorized, we should impose the employee protective conditions in Oregon Short Line R. Co. - Abandonment - Goshen, 360 I.C.C. 91 (1979), with modifications. The MRR authorizes the court, rather than this Commission, to impose appropriate employee protective conditions should it authorize the abandonments. Thus, we need not address this matter further.

CONCLUSION

We recommend that the Court authorize B&M to abandon and discontinue service over the above-described portions of the Portland Route and to abandon its Amesbury Branch. These lines do not conform with the minimum FRA Class I standards. To restore service, B&M would have to invest \$1,359,561 to rehabilitate these lines. Since these lines do not generate revenue for B&M at present, any investment for rehabilitation is not warranted. No shipper has objected to these proposals, indicating that any adverse effect would be minimal.

Abandonment of these lines would also benefit B&M's estate by enabling it to reinvest its assets more productively elsewhere.

RECOMMENDATIONS

1. We recommend that the Court authorize B&M's Trustees to abandon and discontinue service over the above-described segments of its Portland Route and to abandon its Amesbury Branch.

2. If a financially responsible person offers to acquire any portion of these lines for the continuation of rail service by the date the Court considers the abandonment petitions, the Court should postpone the effective date of the abandonment for a reasonable time to permit negotiations.

3. The Court should require B&M's Trustees to keep intact the track and facilities of those portions of the lines subject to an offer of purchase for continuation of rail service. B&M's trustees should be authorized to dispose of portions of the lines not subject to offer to purchase for a continuation of rail service.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Clapp, and Sterrett.

Agatha L. Mergenovich  
Secretary

(SEAL)

Interstate Commerce Commission  
Office of the Secretary - Service Section  
Washington, D.C. 20423

Official Business  
Penalty For Private Use, \$300

Address Correction Requested

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Interstate Commerce Commission  
First Class Mail



AD000032/00177 00148 SCSS  
J.J. NEE  
150 CAUSEWAY STREET  
BOSTON MA 02114

**R L E A****RAILWAY LABOR EXECUTIVES' ASSOCIATION**

RAILWAY LABOR BUILDING, 400 1ST ST. N.W., WASHINGTON, D.C. 20001

(202) 737-1501

January 8, 1982

Ms. Agatha L. Mergenovich, Secretary  
 Interstate Commerce Commission  
 Washington, D. C. 20423

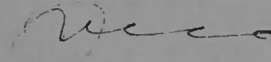
Dear Ms. Mergenovich:

Please refer to application filed by Boston and Maine Corporation for authority to abandon 1.26 miles of its line of railroad, identified by the I.C.C. as Docket No. AB-32, Sub. 17F. This letter is to be deemed as protest pursuant to Section 10904 (b) of the Interstate Commerce Act as amended, 49 U.S.C. 10904 (b).

Upon investigation we find that the application, if granted, may well have an adverse effect on the employes of the applicant, as well as employes of other railroad carriers affected. Therefore, the Railway Labor Executives' Association, representing all of the standard railway labor organizations representing practically all of the several classes of employes, enters its protest in opposition to approval of this application and prays that the application will be denied. RLEA also respectfully requests the I.C.C. to conduct an investigation and hold oral hearings in connection therewith and that it be served with all notices, orders and pleadings including notice of hearings which may subsequently be arranged.

Should the Commission determine to approve the pending application, it is requested that the Commission impose conditions for the protection of employes as set forth in Oregon Short Line RR. - Abandonment, 360 I.C.C. 91(1979), and as RLEA has requested in Norfolk & Western Railway - Trackage Rights, Finance Docket No. 28387, those conditions should be modified so as to conform to the requirements of 49 U.S.C. Sections 10903(b)(2) and 11347.

Very truly yours,



James J. Kennedy, Jr.  
 Executive Secretary

J. J. Nee  
 Vice President and General Counsel  
 Boston and Maine Corporation  
 150 Causeway Street  
 Boston, Massachusetts 02114

cc: Chief Executives - RLEA  
 Nat'l. Legis. Reps.

Subscribed and sworn to before me this 8th day of January, 1982

Notary Walter L. Shorge

My Commission Expires September 30, 1985

December 23, 1941

Agatha L. Mergenovich, Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

Re: Docket No. 48-32 (Sub No. 17F )  
In the Matter of the Application of Boston  
and Maine Corporation, Debtor, for a report  
to its Bankruptcy Court recommending  
authorization for abandonment of a segment  
of the Portland Main Line East Route,  
Seabrook, New Hampshire

Dear Mrs. Mergenovich:

Enclosed for filing in the above-captioned matter,  
please find the original and six (6) copies of the above-  
captioned application, together with Boston and Maine  
Corporation check No. 6640 in the amount of \$700.00 for the  
filing fee therefor.

Sincerely,

Sidney Weinberg

SW/mcn  
Enclosures

cc: Parties described in certificate  
of service, page 6

Governor of the State of Massachusetts  
and Governor of the State of New Hampshire  
by Certified Mail

PS Form 3811, Jan. 1978  
RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

**SENDER:** Complete Items 1, 2, and 3.  
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one.)  
 Show to whom and date delivered.....¢  
 Show to whom, date and address of delivery.....¢  
 RESTRICTED DELIVERY  
 Show to whom and date delivered.....¢  
 RESTRICTED DELIVERY.  
 Show to whom, date, and address of delivery.\$\_\_\_\_\_

(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:  
*Hon. Hugh J. Gallen*  
*State House - Room 208*  
*Concord, NH 03301*

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	691687	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE  Addressee  Authorized agent

4. DATE OF DELIVERY  
*12-28-81*

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6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

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FEES)

133

INSURED NO.

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POSTMARK  
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 CONCORD, NH

CLERK'S INITIALS



BOSTON AND MAINE CORPORATION - DEBTOR  
150 CAUSEWAY STREET  
BOSTON, MASSACHUSETTS 02114  
Telephone: 227-6000



LAW DEPARTMENT

ROBERT W. MESERVE  
BENJAMIN H. LACY  
TRUSTEES

JOHN J. NEE  
Vice President and General Counsel

JOHN E. O'KEEFE  
SIDNEY WEINBERG  
Attorneys

December 23, 1981

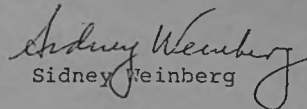
Agatha L. Mergenovich, Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

Re: Docket No. AB-32 (Sub No. 17F )  
In the Matter of the Application of Boston  
and Maine Corporation, Debtor, for a report  
to its Bankruptcy Court recommending  
authorization for abandonment of a segment  
of the Portland Main Line East Route,  
Seabrook, New Hampshire

Dear Mrs. Mergenovich:

Enclosed for filing in the above-captioned matter,  
please find the original and six (6) copies of the above-  
captioned application, together with Boston and Maine  
Corporation check No. 6640 in the amount of \$700.00 for the  
filing fee therefor.

Sincerely,

  
Sidney Weinberg

SW/mon  
Enclosures

cc: Parties described in certificate  
of service, page 6

Governor of the State of Massachusetts  
and Governor of the State of New Hampshire  
by Certified Mail

*Atty - client & trustee*

November 24, 1981

A. G. Dustin

In re: Abandonment and Discontinuance of  
Operations, Portland Main Line East Route

Attached proposed memorandum to Trustees re the above.

If satisfactory, kindly sign and return to me for  
placement on next agenda of the Trustees.

S. Weinberg

SW/mon  
Attachment

Memorandum to the Trustees

Abandonment and Discontinuance of Operations  
of Segment of Portland Main Line East Route,  
Massachusetts and New Hampshire

The segment of the Portland Main Line East Route proposed for discontinuance of operations within the Commonwealth of Massachusetts and for abandonment within the State of New Hampshire is 5.2 miles in length extending between milepost 37.50 in Newburyport, Essex County, Massachusetts and milepost 42.70 in Seabrook, Rockingham County, New Hampshire (The line). 3.94 miles of line within Massachusetts are owned by the MBTA. The New Hampshire segment of the line, 1.26 miles in length, is included in the estate of the Debtor.

No rail business has been generated by the line in the historical past.

The estimated cost to rehabilitate the line to FRA Class 1 standard, including the costs to restore bridges, is approximately \$1.2 million. The estimated net liquidation value of the portion of the line in New Hampshire, including land resale is \$24,624.00.

The Massachusetts Department of Public Works supports the application to avoid the expense of maintaining two highway bridges in Salisbury, MA.

I recommend a vote authorizing abandonment of the segment of the line in New Hampshire and discontinuance of operations on the segment of the line within Massachusetts.

---

A. G. Dustin

Dated:

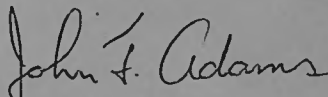
September 30, 1981

Mr. S. Weinberg:

In re: Miles of Track Operated

Herewith the total miles of track operated and other railroad owned sidings for the following branch lines (numbered per yours of September 4, 1981):

8. Segment of Eastern Route Main Line  
3.94 Mi Track Operated - "T" owned  
1.26 Mi " " - B&M "  
0.20 Mi Other Track - "T" owned
9. Chicopee Falls Branch  
2.16 Mi Track Operated  
1.64 " Other Track
10. Easthampton Branch  
3.42 Mi Track Operated  
0.95 " Other Track
11. Woburn Loop  
1.82 Mi Track Operated - "T" owned  
0.84 " Other Track
12. Segment of Conway Branch  
12.80 Mi Track Operated  
1.50 " Other Track
13. Watertown Branch  
5.57 Mi Track Operated  
4.85 " Other Track

  
John F. Adams

JFA/jf

cc: Mr. A. G. Dustin  
cc: Mr. W. J. Rennieke  
cc: Mr. V. R. Terrill  
cc: Mr. E. J. Marrs

December 19, 1980

V. R. Terrill

At the meeting concerning embargoes in the State of New Hampshire yesterday, it was determined to proceed with abandonment of a segment of the Portland Main Line East Route, southerly of Seabrook, N. H.

Kindly provide the mileposts of the segment to be abandoned.

Map Code B of B&M's amended system diagram map described the following:

- (a) Newburyport, MA to Seabrook, NH, including Amesbury Branch (5.2 miles segment of Portland Main Line East Route and Amesbury Branch, 2.79 miles).
- (b) Located with Commonwealth of Massachusetts and State of New Hampshire.
- (c) Located within Essex County, MA and Rockingham County, NH.
- (d) Mileposts: B37.50 to B42.79 and S 1.00 to S 3.79.
- (e) No agency station located on these segments. Segments served by mobile agent based at Lawrence, MA and agency station at Portsmouth, New Hampshire.

Is that the description of the segment to be abandoned.

S. Weinberg

SW/son

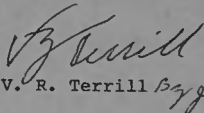
cc: W. R. Rennieke

January 6, 1981

S. Weinberg

In response to your request for information in memo dated 12/19/80:

- A. Newburyport, MA - Seabrook, NH  
MP B-37.50 - B42.70  
Mass B-37.50 - B-41.42 = 3.92 miles  
NH B-41.42 - B-42.70 = 1.28 miles  
5.2 miles
- Amesbury Br. Salisbury, MA to Amesbury, MA  
Off East Route Main Line @ MP B-39.34  
MP- S-0 to S-3.79 = 3.79 miles
- B. Located within Commonwealth of Massachusetts and State of New Hampshire
- C. Located within Essex County, MA and Rockingham County, NH
- D. Milepost B-37.50 - B-42.70 and S-0 - S-3.79
- E. No agency station located on these segments  
Segments served by mobile agent based at Lawrence, MA and agency station at Portsmouth, NH.

  
V. R. Terrill

11/2/80

727-5010

Justin Radde ↓

Paul McHugh

~~DPW given authority~~

M.B.T.A. went to U.M.T.A. - loan from U.M.T.A.  
no opposition

Talk with Wm. McDonald M.B.T.A.

All M.B.T.A. has done is refer question of  
authority from their funding agency  
for the purchase of the line U.M.T.A. has  
break the line. U.M.T.A. has no objection.

Talk with Paul McHugh not in

Berkshire - What are you doing building  
a bridge - We haven't  
used it for years.

Feb 6, 1975 K to build a bridge

Dept maintain  
over



MASSACHUSETTS  
BAY  
TRANSPORTATION  
AUTHORITY

EQUIP. 118.1

50 High Street, Boston, MA 02110

November 7, 1980

Mr. Lawrence B. Boyd  
Chief Design Engineer  
BOSTON & MAINE CORPORATION  
Iron Horse Park  
North Billerica, Massachusetts 01862

RE: Elimination of Bridges 39.07 and 39.34, Salisbury, Mass.

Dear Mr. Boyd:

Pursuant to your October 27, 1980 letter, this matter was "cleared" through your office prior to soliciting UMTA approval of bridge eliminations at Elm Street and Mudnock Road, Salisbury. Subsequently, upon UMTA concurrence with the bridge elimination proposal, DPW agreement was formulated to provide means for replacement of either bridge if and when the unexpected revival of this rail line occurs.

I am surprised your letter did not address the fact you had concurred with these bridge eliminations, and you had provided the MBTA information that no freight service existed on the Amesbury Branch and abandonment was eminent.

I do hope this letter clarifies the fact MBTA did address B&M needs on the Amesbury Branch prior to commitment to the Massachusetts DPW, for the benefit of the extensive copy list.

Very truly yours,

William A. MacDonald  
Assistant Director and  
Chief Engineering Officer

WM/gy

cc: C. W. England  
T. J. Fleming  
F. J. Walters  
S. Weinberg, B&M  
V. R. Terrill, B&M  
F. G. Fotta, B&M  
J. F. Adams, B&M  
G. A. Gordon, B&M  
S. Navaro, B&M  
Justin Radlo, Mass. DPW  
file



BOSTON AND MAINE CORPORATION - DEBTOR  
IRON HORSE PARK  
NO. BILLERICA, MASS. 01862



RECEIVED  
M.P.T.A.  
COMMUTER RAIL DEPT.  
OCT 31 2 00 PM '80  
ROBERT W. MESERVE  
BENJAMIN H. LACY  
TRUSTEES

October 27, 1980

Mr. W. A. MacDonald  
Asst. Director and Chief Engineer  
Mass. Bay Transportation Authority  
Railroad Operations  
50 High St.  
Boston, MA 02110

Dear Mr. MacDonald:

Subject: The Elimination of Bridges 39.07 and 39.34,  
Salisbury, MA., Main Line East.

We are attaching a copy of the Agreement which was enacted in 1975 between the Commonwealth of Massachusetts Dept. of Public Works, and the Trustees of the Boston and Maine Corporation, for the purpose of removing a track bridge in the Town of Marlboro, which carried the Boston and Maine tracks over Fitchburg Street. The Agreement covered the removal of the bridge, reduction of the grade of the railroad, and the construction of a grade crossing with all costs being assumed by the Commonwealth of Massachusetts.

If at a later date the Mass. Dept. of Public Utilities decrees that any changes be made in the crossing, all such costs were agreed to be borne by the Department.

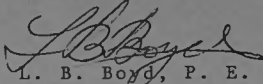
We submit a copy of this Agreement even though it is slightly different in context to what is anticipated at Salisbury for assistance, if needed, in making an Agreement with the Department for the elimination of the highway bridges in Salisbury.

After the elimination of the Elm Street Bridge has been completed, it will not be possible for the Boston and Maine to operate trains into the Amesbury Branch with leaves the Main Line East under the present bridge at Elm Street, Salisbury. In order to eliminate expense to the Mass. Dept. of Public Works, we are requesting our Law Dept. to petition for abandonment of the Amesbury Branch, which

October 27, 1980

has not been operated for a number of years. The Amesbury Branch is not the property of the MBTA.

Sincerely,

  
L. B. Boyd, P. E.  
Chief Design Engineer

LBB/hc --

cc: Mr. Justin Radlo  
Chief Engineer  
Commonwealth of Massachusetts  
Dept. of Public Works  
100 Nashua St.  
Boston, MA 02114

cc: Mr. S. Weinberg:

Please take the necessary steps to immediately have the Amesbury Branch embargoed out of service and then commence your proposal for the abandonment of the Branch through the Interstate Commerce Commission. Mr. John O'Dowd, Billerica Extension 295, will be the Engineering Dept. representative for this activity. He will be available to furnish the necessary exhibits for your case.

L. B. Boyd

cc: D. J. Hughes  
J. F. Adams  
L. B. Boyd  
File: Bridge 39.07 Mudnock, Salisbury, MA  
File: 39.34 Elm St., Salisbury, MA  
Main Line East.  
File: Abandonment of the Amesbury Branch

BOSTON AND MAINE CORPORATION, DEBTOR  
ROBERT W. MESERVE AND BENJAMIN H. LACY, TRUSTEES

CONTRACT BUREAU TRANSMITTAL MEMO

DATE SEP 22 1975

FROM: P. E. Churchill  
Director-Contract & Pass Bureau

TO: Messrs. S. B. Culliford  
P. W. Carr  
J. J. Nee  
✓ H. B. Berkshire  
W. A. Kirk  
Boston Div. Supt.-G. F. Gallagher  
~~N.E. Div. Supt.-W. V. Furey~~  
Agent- *H. B. Meserve, Boston*

Attached for your information is copy of numbered document checked below.

CONTRACT #

DEED # 12470

*For print in original*

CORRESPONDENCE RE CONTRACT #

OPENING NOTICE SENT

CLOSING NOTICE SENT

2014  
C-2

*DPW*  
*File it*  
*MAK L Brown*  
*BRW*  
*Empire Edge*  
*35:61*

CERTIFICATE OF VOTE

I, the undersigned Benjamin H. Lacy, one of the Trustees of the property of Boston and Maine Corporation, in reorganization, hereby certify that at a meeting of the Trustee group held on \_\_\_\_\_, at which both Trustees were present, there was presented a memorandum from Alan G. Dustin, President, to the Trustees on the subject of abandonment of the segment of the Portland Main Line East Route, approximately 1.26 miles in length, extending between the New Hampshire/Massachusetts state line at milepost B41.44 and milepost B42.70, all in Seabrook, Rockingham County, New Hampshire and discontinuance of operations on a segment of Portland Main Line East Route, approximately 3.94 miles in length, extending between milepost B37.50 and milepost B41.44, all in Newburyport and Salisbury, Essex County, Massachusetts, a copy of which memorandum is attached to this certificate, and that after discussion of the matter with Mr. Dustin, the Trustees duly

VOTED: To authorize appropriate application for abandonment of the segment of the Portland Main Line East Route, approximately 1.26 miles in length, extending between the New Hampshire/Massachusetts state line at milepost B41.44 and milepost B42.70, all in Seabrook, Rockingham County, New Hampshire and to discontinue operations on a segment of the Portland Main Line East Route, approximately 3.94 miles in length, extending between mile-

post B37.50 and milepost B41.44, all in Newburyport and Salisbury, Essex County, Massachusetts, having determined that such abandonment and discontinuance of operations are in the interests of the Debtor's estate without unduly adversely affecting the public interest.

I hereby further certify that the said vote has not been amended, modified or revoked and is now in full force and effect.

ATTEST:

\_\_\_\_\_  
Trustee

Dated:

BOSTON AND MAINE CORPORATION - DEBTOR  
IRON HORSE PARK  
NO. BILLERICA, MASS. 01862



ROBERT W. MERRIVE  
BENJAMIN H. LACY  
TRUSTEES

*Mc Weinberg*

ENGINEERING DEPARTMENT

November 24, 1980

*11/3/81.  
C.D. Powell says  
both bridges  
are on East Route  
Main Line*

Mr. William A. MacDonald  
Assistant Director & Chief Engineering Officer  
MBTA-Railroad Operations  
50 High Street  
Boston, MA 02110

Dear Mr. MacDonald:

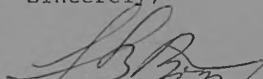
Re: Elimination of Bridges 39.07 and 39.34,  
Salisbury, Mass. M.L.E.

I am not certain what you read into my October 27, 1980 letter which precipitated your November 7, 1980 reply, therefore, to clear the air of any misunderstanding which may have been caused, I offer the following as an explanation.

The B&M Corporation was in agreement with the filling of the bridges and I had been involved in those discussions as you so correctly pointed out. We, however, in a spirit of cooperation with the proposal still had to protect the abandonment of the branch so that no expense of relocation of the branch switch would be involved in the bridge elimination project. My letter, copy to our Law Dept., commenced that activity.

Again, I apologize for any misunderstandings.

Sincerely,

  
Mr. L. B. Boyd, P.E.  
Environmental Engineer

LBB/kmc

(Con't)

Letter to:

Mr. William A. MacDonald  
Assistant Director & Chief Engineering Officer  
MBTA-Railroad Operations  
50 High Street  
Boston, MA 02110

bc: Mr. C. W. England, Director Railroad Operations  
MBTA, 50 High Street, Boston, MA 02110

Mr. Justin Radlo, Chief Engineer  
Mass. Dept. of Public Works  
100 Nashua Street, Boston, MA 01114

T. Fleming, Engineer Structural MBTA  
Railroad Operations, 50 High Street, Boston, MA 02110

Mr. Frank Walters, Real Property Management  
MBTA, 50 High Street, Boston, MA 02110

Mr. V. R. Terrill

Mr. S. Weinberg

Mr. Fotta

Mr. Adams

Mr. Gordon

Mr. Nevero

Mr. O'Dowd

File- Bridge 39.07, Mudnock Salisbury, MA MLE  
Bridge 39.34, Elm Street, Salisbury, MA  
Abandonment of Amesbury Branch



MARKETING & SALES  
INTERNAL MEMORANDUM

*File Aband's*  
*Portland main*  
*Newburyport, ma*  
*Salisbury, NH.* *SW*

June 2, 1982

S. Weinberg:

Re: Petition for Order No. 634 and 635

Attached is an extract from Sup. 13, ICC OPPL 6000-C publishing the abandonment of Amesbury and Salisbury, MA, effective July 15, 1982, as authorized in the aforementioned orders.

*J. A. Truesdale*

J. A. Truesdale

JAT/jlk

Attachment

cc: S. B. Culliford  
V. R. Terrill  
E. J. Marrs  
E. R. Towle  
Agent - Portsmouth  
J. I. Bean



STATION	RR	INDEX NO	EFFECTIVE	STATION	RR	INDEX NO	EFFECTIVE
*Cheboud Spur (3398)..... (Formerly No 8215 on NIG)	CLGR	8215	[13E]JIV	*Ellis (2280-2300).....	ROCK	5015	# [13A]Z
*Cheboud Spur (3422)..... (Eliminate, See No 8215 on CLGR)	NIG	8215	[13E]X	*Harbin (2280-2300).....	ROCK	5020	# [13A]Z
*Dodson (3398)..... (Formerly No 8205 on NIG)	CLGR	8205	[13E]JIV	Lincoln (271-2816-3211).....	UP	230	# [13C]I
*Dodson (3422)..... (Eliminate, See No 8205 on CLGR)	NIG	8205	[13E]X	NEW JERSEY			
*Hodge (Jackson Par) (3398)..... (Formerly No 8185 on NIG)	CLGR	8185	[13E]JIV	*Ft Dix (22-94-3600).....	CR	45760	# [13F]Z
*Hodge (Jackson Par) (3422)..... (Eliminate, See No 8185 on CLGR)	NIG	8185	[13E]X	NEW MEXICO			
*Hunt (3398)..... (Formerly No 8200 on NIG)	CLGR	8200	[13E]JIV	Becnelillo (1-244-3320).....	ATSP	7450	[13B]I
*Hunt (3422)..... (Eliminate, See No 8200 on CLGR)	NIG	8200	[13E]X	*Ede (1076-2300).....	ROCK	8860	# [13A]Z
*Jonesboro (3398)..... (Formerly No 8190 on NIG)	CLGR	8190	[13E]JIV	*Lashia (1076-2300).....	ROCK	8850	# [13A]Z
*Jonesboro (3422)..... (Eliminate, See No 8190 on CLGR)	NIG	8190	[13E]X	*San Jon (1076-2300).....	ROCK	8820	[13A]X
Lockport (118-130-2886-3307).....	SP	17150	[13]I	Tucucari (2197-2300)..... (Eliminate, See No 6150 on SSW)	ROCK		
*North Mansfield (2936-3353).....	KCS	1092	[13B]CP	NEW YORK			
*Wainfield (3398)..... (Formerly No 8230 on NIG)	CLGR	8230	[13E]JIV	*Blandell (1-3443)..... (Formerly No 70 on NYLE)	BSOR	20	[13E]JIV
*Wainfield (3422)..... (Eliminate, See No 8230 on CLGR)	NIG	8230	[13F]X	*Blandell (1-3421)..... (Eliminate, See No 20 on BSOR)	NYLE	70	[13E]X
MAINE				*Buffalo (RC Jct) (26)..... (Formerly No 65 on NYLE)	BSOR	10	[13E]JV
(See Note 2112)				*Buffalo (RC Jct) (26)..... (Eliminate, See No 10 on BSOR)	NYLE	65	[13E]X
*East Wilton (22-92-273-900-3410).....	NEC	950	# [13A]Z	*Canadique (1-3600).....	CR	9524	[13B]T
*Farmington (76-92-273-900-3410).....	NEC	960	# [13A]Z	*Collins (Erie Co) (1-3443)..... (Formerly No 195 on NYLE)	BSOR	70	[13E]JIV
*Jay (92-273-900-2947-3410).....	NEC	935	# [13A]Z	*Collins (Erie Co) (1-3421)..... (Eliminate, See No 70 on BSOR)	NYLE	195	[13E]X
*North Jay (92-273-900-3410).....	NEC	940	# [13A]Z	*Eden Center (1-3443)..... (Formerly No 180 on NYLE)	BSOR	40	[13E]JIV
*West Farmington (92-273-900-3410).....	NEC	955	# [13A]Z	*Eden Center (1-3421)..... (Eliminate, See No 40 on BSOR)	NYLE	180	[13E]X
*Wilton (76-92-273-900-3410).....	NEC	945	# [13A]Z	*Gowanda (1-3443)..... (Formerly No 200 on NYLE)	BSOR	80	[13E]JIV
MASSACHUSETTS				*Gowanda (1-3421)..... (Eliminate, See No 80 on BSOR)	NYLE	200	[13E]X
*Amesbury (76-264-3314).....	BR	150	# [13A]Z	Greenlawn (170-171-740-2366-3313).....	LI	375	# [13C]ZP
*Ashland (1-3600).....	CR	13020	# [13C]Z	*Hamburg (1-3443)..... (Formerly No 75 on NYLE)	BSOR	30	[13E]JIV
*Charlton (1-3600).....	CR	13032	# [13C]Z	*Hamburg (1-3421)..... (Eliminate, See No 30 on BSOR)	NYLE	75	[13E]X
*Chester (1-3600).....	CR	13075	# [13C]Z	Kings Park (22-108-170-171-2366-3313).....	LI	390	# [13C]IP
*Ludlow (1-22-3600).....	CR	13058	[13B]RP	*Lawtons (1-22-3443)..... (Formerly No 190 on NYLE)	BSOR	60	[13E]JIV
*Oulincy Adams (1-3600).....	CR	42595	# [13C]ZP	*Lawtons (1-22-3421)..... (Eliminate, See No 60 on BSOR)	NYLE	190	[13E]X
*Salisbury (76-264-3314).....	BR	149	# [13A]Z	*North Collins (1-3443)..... (Formerly No 185 on NYLE)	BSOR	50	[13E]JIV
*Trescott (94-3600).....	CR	43050	# [13C]ZP	*North Collins (1-3421)..... (Eliminate, See No 50 on BSOR)	NYLE	185	[13E]X
*Whitman (94-3600).....	CR	42820	# [13C]ZP	*Pittsford (1-22-3600)..... Port Jefferson (170-171-740-2366-3313).....	CR	954	[13B]RP
MICHIGAN				Setauket (22-108-170-171-2366-3313).....	LI	410	# [13C]IP
(See Note 1566)				Smithtown (22-170-171-2366-3313).....	LI	395	# [13C]ZP
*Mendon (1-22-3600).....	CR	26990	# [13A]Z	St James (170-171-740-2366-3313).....	LI	400	# [13C]ZP
*Mottava (1-22-59-3600).....	CR	26980	# [13A]Z	NORTH CAROLINA (See Note 3030)			
MINNESOTA				*Pactolus (8-1974-3489).....	SCL	945	# [13H]Z
Lisnore (111-2280-2300).....	ROCK	1965	# [13A]Z	*Stokes (1974-3489).....	SCL	935	# [13H]Z
Reading (111-2280-2300).....	ROCK	1955	# [13A]Z	*Washington (1974-3489).....	SCL	950	# [13H]Z
Bound Lake (111-2280-2300).....	ROCK	1945	# [13A]Z	*Whitchard (1974-3489).....	SCL	940	# [13H]Z
Wilson (111-2280-2300).....	ROCK	1960	# [13A]Z	OHIO			
Worthington (111-2280-2300)..... (Eliminate, See No 31950 on CW)	ROCK	1950	[13A]X	*Bainbridge (Ross Co) (76-2654-3328).....	DTI	490	# [13I]Z
MONTANA				Bloom Jct (26).....	DTI	745	# [13I]Z
*Bristone (1-3505).....	BN	9782	[13]O	Bondclay (2654-3328).....	DTI	765	# [13I]Z
*Lupfer (1-3505).....	BN	9750	[13]O	*Condit (1-22-3600).....	CR	22750	# [13H]Z
*Radnor (1-3505).....	BN	9765	[13]O	*Galena (1-22-3600).....	CR	22760	# [13H]Z
*Stryker (1-3505).....	BN	9770	[13]O	*Howard (1-22-3600).....	CR	22720	# [13H]Z
*Swamp Creek (1-3505).....	BN	9794	[13]O	Ironton (776-2654-3328).....	DTI	850	# [13I]Z
*Teego (1607-3505).....	BN	9775	[13]O	*Lawco (15-2654-3328).....	DTI	787	# [13I]Z
*Twid Meadows (1-3505).....	BN	9796	[13]O	*Lisman (2654-3328).....	DTI	790	# [13I]Z
NEBRASKA				*Pedro (15-2654-3328).....	DTI	840	# [13I]Z
Beatrice (413-2195-2300).....	ROCK	5010	# [13A]Z				

600-Continued.

Column 1	Correction(s):	Column 2
Leadon, MA.....	5118 Springfield, MA	
Hamden, MI.....	Cancel	
New Paris, IN.....	5730 Marion, IN	
Mottawa, MI.....	Cancel	
Pittsford, NY.....	5117 Rochester, NY	
Geisley Adams, MA.....	Cancel	
Sunbury, OH.....	Cancel	
Trenton, MA.....	Cancel	
Whitman, MA.....	Cancel	

3601-The mailing addresses for the Field Terminal Supervisors listed in Column 2 of Note 3600 are as follows: (CB)

Field Terminal	Correction(s):	Address
Croston, NJ.....	5205	6201 Tonelle Ave, North Bergen, NJ 07047

6001- LIST OF OLD AND NEW NUMBERS OF STATIONS

As shown in Note 6000 on pages 837 to 864 of Tariff and Note 6001 on page 25 of Supplement 1, page 41 of Supplement 9, pages 36 and 37 of Supplement 10 and page 27 of Supplement 11, except as follows:

Old No	Rev No	Station & RB	Effective
8240(NLC)	8240	Alexandria, LA, CLGR.....	6-6-82
70(NYLE)	20	Elmadell, NY, BSOR.....	6-6-82
65(NYLE)	10	Buffalo (BC Jct), NY, BSOR.....	6-6-82
8215(NLC)	8215	Chesmond Spur, LA, CLGR.....	6-6-82
195(NYLE)	70	Collins (Erie Co), NY, BSOR.....	6-6-82
8205(NLC)	8205	Dodson, LA, CLGR.....	6-6-82
180(NYLE)	40	Eden Center, NY, BSOR.....	6-6-82
200(NYLE)	80	Cowanda, NY, BSOR.....	6-6-82
75(NYLE)	30	Hastburg, NY, BSOR.....	6-6-82
8185(NLC)	8185	Hodge (Jackson Par), LA, CLGR.....	6-6-82
8200(NLC)	8200	Hunt, LA, CLGR.....	6-6-82
8190(NLC)	8190	Jonesboro, LA, CLGR.....	6-6-82
190(NYLE)	80	Lawtens, NY, BSOR.....	6-6-82
195(NYLE)	50	North Collins, NY, BSOR.....	6-6-82
8230(NLC)	8230	Winfield, LA, CLGR.....	6-6-82

6101- LIST OF ABANDONED STATIONS

As shown in Note 6100 on pages 864 to 878 of Tariff, and the Alphabetical Section of this Supplement and Supplements 1, 9, 10 and 11.

6201- LIST OF OLD AND NEW NAMES OF STATIONS

As shown in Note 6200 on pages 878 to 879 of Tariff and Note 6201 on page 26 of Supplement 1, page 41 of Supplement 9, page 37 of Supplement 10 and page 27 of Supplement 11, except as follows:

No	Former Name	Railroad	Present Name
4230	Creeley Jct, CO.....	UP	Gill, CO

6301- OLD AND NEW NAMES OF CARRIERS AND LIST OF CARRIERS NO LONGER SHOWN HEREIN

As shown in Note 6300 on pages 879 to 888 of Tariff and Note 6301 on page 26 of Supplement 1, page 41 of Supplement 9, page 37 of Supplement 10 and page 27 of Supplement 11, except as follows:

Old Name	New Name
New York & Lake Erie Railroad (Stations Nos. 65 to 200)...	Buffalo Southern Railroad, Inc.
North Louisiana & Gulf Railroad Company (Stations Nos. 8185 to 8240).....	Central Louisiana & Gulf Railroad Company.
Warren & Ouachita Valley Railway Company.....	No longer common carrier.

6501- EXPLANATION OF REFERENCE MARKS

- C Change from Open to Prepay.
- D Change from Prepay to Open.
- E Newly Established Station.
- G Change in Spelling of Station.
- H Change in Name of Station.
- I Change in Note Reference.
- J Change in Index Number of Station.
- K Change in State.
- L Change in Branch Heading.
- N Change in County.
- O Change in conditions specified in special note.
- P See former Supplement for conditions previously in effect.
- R Re-established Station.
- T Technical Change. No change in station conditions.
- V Change in Name of Carrier.
- X Eliminated from list of stations on carrier indicated.
- Y Service Discontinued.
- Z Station Abandoned.

\* No Agent. Except as otherwise provided in Note 8 and in notes referred to in connection with this station, freight charges to this station must be prepaid. (See Note 9).

† New station number. See Item 200, page 16 of Tariff.

‡ No facilities for handling freight.

# Change restrictive as to the acceptance or delivery of freight.

[11M] REISSUED; effective May 20, 1982. Issued on less than statutory notice under authority of 49 CFR 1300.10 (1) and PAPUC Permission No. 22363, dated March 24, 1948.

[13] Effective June 15, 1982. Issued on less than statutory notice under authority of 49 CFR 1300.10(1).

[13A] Effective July 15, 1982.

[13B] Effective June 6, 1982. Issued on less than statutory notice under authority of 49 CFR 1300.10(1).

[13C] Effective July 6, 1982.

[13E] Effective June 6, 1982. Issued on one day's notice under authority of ICC Permission No. 63368.

[13F] Effective June 15, 1982. Issued under authority of certificate and decision of the Interstate Commerce Commission in Finance Docket No. AB-167 (Sub-No. 455)N and Ex Parte No. 419, dated November 25, 1981.

[13G] Effective June 6, 1982. Issued on one day's notice under authority of ICC Permission No. 63368 and IL CC Permission No. R-17827.

[13H] Effective June 15, 1982. Issued on ten days' notice under authority of certificate and order of the Interstate Commerce Commission in Finance Docket No. AB-55 (Sub-No. 55), dated April 27, 1982.

[13J] Effective June 30, 1982. Issued on ten days' notice under authority of certificate and order of the Interstate Commerce Commission in Finance Docket No. AB-57 (Sub-No. 10), dated March 10, 1982, and Wisconsin Public Service Commission Approval No. RR-2614, dated July 23, 1958.

[13K] Effective May 31, 1982. See Item 150, page 16 of Tariff.

[13L] Effective June 12, 1982. Issued on ten days' notice under authority of certificate and order of the Interstate Commerce Commission in Finance Docket No. AB-111 (Sub-No. 2, dated April 23, 1982) and (Sub-No. 3, dated May 4, 1982.)

[13M] Effective June 15, 1982. Issued under authority of certificate and decision of the Interstate Commerce Commission in Finance Docket No. AB-167 (Sub-No. 299)N and Ex Parte No. 419, dated November 25, 1981.

[13N] Effective July 1, 1982.

## REPORT

FEB 25 1982

Docket No. AB-32 (Sub-No. 17)

ROBERT W. MESERVE AND BENJAMIN H. LACY  
TRUSTEES OF THE BOSTON AND MAINE CORPORATION - ABANDONMENT AND  
DISCONTINUANCE (PORTION) - PORTLAND MAIN LINE EAST ROUTE

Docket No. AB-32 (Sub-No. 18)

ROBERT W. MESERVE AND BENJAMIN H. LACY  
TRUSTEES OF THE BOSTON AND MAINE CORPORATION - ABANDONMENT -  
AMESBURY BRANCH

Decided: February 23, 1982

The Trustees of the Boston and Maine Corporation (B&M) filed these proposals (1) to abandon a segment of its Portland Main Line East Route (Portland Route) extending approximately 1.26 miles between Milepost B41.44 and Milepost B42.70 in the Town of Seabrook, Rockingham County, NH and to discontinue service over an adjoining segment of the Portland Route extending approximately 3.94 miles between Milepost B41.44 in the Town of Salisbury, MA, and Milepost B37.50 in the Town of Newburyport, Essex County, MA<sup>1/</sup> and (2) to abandon its Amesbury Branch extending approximately 3.71 miles between Milepost 0.0 in the Town of Salisbury (where it connects with the Portland Route) and Milepost 3.71 in the Town of Amesbury, Essex County, MA.

These proposals are governed by the Milwaukee Railroad Restructuring Act, 45 U.S.C. 900 *et. seq.* (MRR). The B&M's Reorganization Court directed us to report pursuant to 11 U.S.C. 1170(b) on these proposals by March 1, 1982. In compliance with the Court's directives, we submit this report recommending that the Court authorize the abandonments.

B&M's applications are being handled under our procedures in Sub-Part F of 49 CFR 1121, promulgated in Ex Parte No. 274 (Sub-No. 4), Abandonment Procedures for Bankrupt Railroads, 360 I.C.C. 615 (1979). Under these procedures, B&M is not required to prefile a system diagram map or comply with publishing and posting requirements. B&M certified that it served copies of the applications on appropriate State officials and agencies. B&M is not required to file environmental information because Section 19 of MRR exempts B&M abandonments from the National Environmental Policy Act.

Under 11 U.S.C. 1170(a), the Court may authorize these abandonments if they are determined to be in the best interest of B&M's estate or essential for the formation of a reorganization plan, and if they are found not to unduly or adversely affect the public interest.

---

<sup>1/</sup> The segment of the Portland Route in Massachusetts is owned by the Massachusetts Bay Transportation Authority. B&M operates the line under an easement.

PUBLIC INTEREST

We believe abandonment of these lines is consistent with the public interest. B&M has performed no operations over the 5.20 mile portion of the Portland Route for the past 5 years because there has been no demand for service. The line is below minimum Federal Railroad Administration (FRA) Class I standards. B&M's cost to rehabilitate the line to meet FRA Class I standards is estimated to be \$1,213,326.

The Massachusetts Department of Public Works supports B&M's proposal to discontinue operations over the Portland Route at Salisbury, MA. Discontinuance of the line would enable the Department to avoid an estimated \$1.5 million for rehabilitation and maintenance expenses for two highway bridges at Salisbury.

The Amesbury Branch has not been operated by B&M for the past 5 years. The line is below minimum FRA Class I standards and has been embargoed since November, 1980. B&M's cost to restore the line to FRA Class I operating condition is estimated to be \$146,235.

BENEFITS TO ESTATE

Abandonment of these lines would benefit B&M's estate. B&M would no longer be obligated to incur expenses for maintenance and rehabilitation of these lines. It would also be able to reinvest the \$160,182 assets it has tied up in the lines in its reorganized system or use the assets to pay the debts.

LABOR PROTECTION

The only objection to the abandonment proposals has been submitted by the Railroad Labor Executives' Association (RLEA). RLEA requests that if abandonments are authorized, we should impose the employee protective conditions in Oregon Short Line R. Co. - Abandonment - Goshen, 360 I.C.C. 91 (1979), with modifications. The MRR authorizes the court, rather than this Commission, to impose appropriate employee protective conditions should it authorize the abandonments. Thus, we need not address this matter further.

CONCLUSION

We recommend that the Court authorize B&M to abandon and discontinue service over the above-described portions of the Portland Route and to abandon its Amesbury Branch. These lines do not conform with the minimum FRA Class I standards. To restore service, B&M would have to invest \$1,359,561 to rehabilitate these lines. Since these lines do not generate revenue for B&M at present, any investment for rehabilitation is not warranted. No shipper has objected to these proposals, indicating that any adverse effect would be minimal.

Abandonment of these lines would also benefit B&M's estate by enabling it to reinvest its assets more productively elsewhere.

RECOMMENDATIONS

1. We recommend that the Court authorize B&M's Trustees to abandon and discontinue service over the above-described segments of its Portland Route and to abandon its Amesbury Branch.

2. If a financially responsible person offers to acquire any portion of these lines for the continuation of rail service by the date the Court considers the abandonment petitions, the Court should postpone the effective date of the abandonment for a reasonable time to permit negotiations.

3. The Court should require B&M's Trustees to keep intact the track and facilities of these portions of the lines subject to an offer of purchase for continuation of rail service. B&M's trustees should be authorized to dispose of portions of the lines not subject to offer to purchase for a continuation of rail service.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Clapp, and Sterrett.

(SEAL)

Agatha L. Mergenovich  
Secretary

Interstate Commerce Commission  
Office of the Secretary - Service Section  
Washington, D.C. 20423

Official Business  
Penalty For Private Use, \$300

Address Correction Requested

Postage And Fees Paid  
Interstate Commerce Commission  
First Class Mail



AB000032/0017/  
SIDNEY WEINBERG  
150 CAUSEWAY STREET  
BOSTON

05085 5038

MA 02114

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

In the Matter of  
BOSTON AND MAINE CORPORATION,  
Debtor

I hereby attest and certify on  
4-5-82, that the  
foregoing document is a full,  
true and correct copy of the  
original on file in my office,  
and in my legal custody

GEORGE V. McGRATH  
CLERK, U.S. DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

MEMORANDUM AND ORDER

on  
Motion of Trustees of Debtor for Authority  
to Abandon and to Discontinue Operations on Segments of  
Portland Main Line East Route

MURRAY, Senior District Judge

The motion for an order authorizing the Trustees, pursuant to Rule 8-512(b) of the Bankruptcy Rules, to abandon a segment of the line of railroad known as "the Portland Main Line East Route" in the State of New Hampshire and to discontinue operations on a segment of the line in Massachusetts, came on to be heard on March 23, 1982, after the filing of the report of the Interstate Commerce Commission (ICC) pursuant to Section 1170(b) of the Bankruptcy Act (11 U.S.C. § 1170(b)), and after notice of the time and place of the hearing to the persons, agencies and entities specified in 11 U.S.C. § 1170(c). At the hearing, counsel for the Trustees called witnesses and presented evidence, which was not controverted. No objections to the abandonment or to the discontinuance of operations were raised.

The segment of the Portland Main Line East Route is a line of railroad approximately 1.26 miles in length between milepost B 41.44 at the Massachusetts/New Hampshire state line to milepost B 42.70, in the town of Seabrook, Rockingham County, New Hampshire. The Debtor reserved an easement for railroad purposes by deed to the Massachusetts Bay Transportation Authority, dated December 24, 1976, in a contiguous segment of the line of railroad, approximately 3.94 miles in length between milepost B 37.50 in the City of Newburyport to milepost B 41.44 in the town of Salisbury, in Essex County, Massachusetts.

The Trustees considered the question of abandonment and

3876

discontinuance of operations at their meeting on December 15, 1981, upon the report and recommendation of Mr. Dustin, president and chief operating officer of the railroad, which was accepted as evidence by the court in this hearing, and voted unanimously to authorize appropriate application for abandonment and for discontinuance of operations. The report of the ICC in Finance Docket No. AB-32 (Sub-No. 17) recommended that the court authorize the Trustees to abandon the 1.26 mile segment of line and to discontinue operations over the 3.94 mile segment of line and stated that the Railway Labor Executives' Association requested that if abandonments are authorized, the employee protective conditions in Oregon Short Line RR Co.-Abandonment-Goshen, 360 ICC 91 (1979) be imposed.

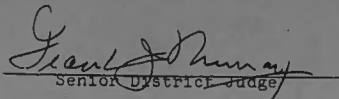
The evidence offered at the hearing satisfied the court that abandonment of the 1.26 mile segment of line and discontinuance of operations over the 3.94 mile segment of line is in the best interest of the estate of the Debtor, in the public interest, and not in derogation of the ultimate reorganization of the Debtor. Accordingly, it is hereby

ORDERED:

1. That the Trustees are authorized to abandon the segment of the Portland Main Line East Route approximately 1.26 miles in length between milepost B 41.44 at the Massachusetts/New Hampshire state line to milepost B 42.70, in the town of Seabrook, Rockingham County, New Hampshire.
2. That the Trustees are authorized to discontinue operations on the segment of the Portland Main Line East Route approximately 3.94 miles in length between milepost B 37.50 in the City of Newburyport to milepost B 41.44 in the town of Salisbury, Essex County, Massachusetts.
3. That the Trustees are authorized to utilize elsewhere on the Debtor's railroad system, and to sell or otherwise dispose of, such materials as may be recovered from the abandoned line.
4. That upon the abandonment of the line hereby authorized,



the Trustees shall observe and comply with the conditions concerning employee protection set forth in Oregon Short Line RR Co.-Abandonment-Goshen, 360 ICC 91 (1979).

  
Senior District Judge

Dated April 1, 1982

BOSTON AND MAINE CORPORATION - DEBTOR  
150 CAUSEWAY STREET  
BOSTON, MASSACHUSETTS 02114  
Telephone: 227-6000



LAW DEPARTMENT

ROBERT W. MESERVE  
BENJAMIN H. LACY  
TRUSTEES

JOHN J. NEE  
Vice President and General Counsel

JOHN E. O'KEEFE  
SIDNEY WEINBERG  
Attorneys

April 7, 1982

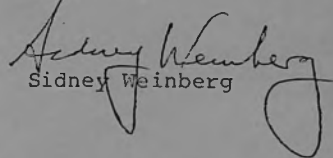
To Interested Parties

Re: U. S. District Court for the District  
of Massachusetts - No. 70-250-M,  
In the Matter of Boston and Maine  
Corporation, Debtor - Petition for Order  
No. 634 - Abandonment and discontinuance of  
Operations on Portland Main Line East Route  
between Newburyport, MA and Seabrook, N.H.

Gentlemen:

Enclosed is a copy of the Memorandum and Order of the Court in the above-captioned matter, entered April 1, 1982, authorizing abandonment and discontinuance of operations on the respective segments of the subject line of railroad.

Sincerely,

  
Sidney Weinberg

SW/mon  
Enclosure

BEFORE THE  
INTERSTATE COMMERCE COMMISSION

IN THE MATTER OF THE APPLICATION )  
OF BOSTON AND MAINE CORPORATION, DEBTOR )  
for a report to its Bankruptcy Court )  
recommending authorization for abandon- ) Docket No. AB-32  
ment of a segment of the Portland Main ) (Sub No. 17F)  
Line East Route in New Hampshire and )  
discontinuance of operations on a seg- )  
ment thereof in Massachusetts )

APPLICATION

Applicant, Boston and Maine Corporation, Debtor (Robert W. Meserve and Benjamin H. Lacy, Trustees) (B&M), pursuant to the provisions of Section 1170 of the Bankruptcy Act 11 U.S.C. 1170, hereby applies for a report to its Bankruptcy Court, the U.S. District Court for the District of Massachusetts (See In the Matter of Boston and Maine Corporation, Debtor, No. 70-250-M) recommending authorization for the abandonment of a segment of a line of railroad, the Portland Main Line East Route, so-called, approximately 1.26 miles in length, extending from Milepost B41.44 to Milepost B42.70, all in the Town of Seabrook, Rockingham County, New Hampshire, and recommending authorization for discontinuance of operation on a contiguous segment thereof, approximately 3.94 miles in length, extending from Milepost B37.50 in the Town of Newburyport to Milepost B41.44 in the Town of Salisbury, all in Essex County, Massachusetts, both contiguous segments are hereinafter referred to collectively as "the line".

In support of its application, B&M hereby states the following:

1121.61(a) GENERAL

1) Q. What is the exact name of applicant?

A. Robert W. Meserve and Benjamin H. Lacy, Trustees of the Property of Boston and Maine Corporation, Debtor, [See In the Matter of Boston and Maine Corporation, Debtor, U. S. District Court for the District of Massachusetts, No. 70-250-M].

2) Q. Is applicant a common carrier by railroad subject to the Interstate Commerce Act?

A. Yes.

3) Q. Is the carrier which owns or operates the line of railroad to be abandoned or over which service is to be discontinued a part of any railroad system?

A. No.

4) Q. What is the relief sought?

A. B&M applies herewith for findings and a report to the U.S. District Court for the District of Massachusetts, the "Bankruptcy Court", in In the Matter of Boston and Maine Corporation, Debtor, No. 70-250-M, recommending approval of B&M's petition for authority to abandon the segment of the line in New Hampshire and to discontinue operations on the segment of the line in Manchester, filed with the Bankruptcy Court on the date of the within application and numbered as Petition for Order No. 634 , all pursuant to the provisions of the Bankruptcy Act, 11 U.S.C. 1170(b) and (c) and the Commission's Rules of Practice relevant thereto contained in Part 1121.60 to 63, inclusive, of the Code of Federal Regulations (49 C.F.R. 1121.60-63).

B&M does not own the real or personal property in segment of the line in Massachusetts. B&M retained an easement in that segment for railroad purposes in the deed of that segment to the Massachusetts Bay Transportation Authority, dated December 24, 1976.

5) Q. Detailed map of the subject line.

A. A detailed map of the line is attached hereto as Exhibit 1 and incorporated herein.

6) Q. Detailed statement of reasons for filing application.

- A. No rail operation has been conducted on the line for more than five years, nor has there been any customer demand therefor. B&M seeks abandonment and discontinuance of operations relative to the respective segments to avoid the possibility that B&M would have to expend approximately \$1,200,000 to rehabilitate the line to the Class 1 level of maintenance required by the Federal Railroad Administration for continued operation of the line (49 C.F.R. 213.5) in the event any such customer demand developed at a station on the line.

The Massachusetts Department of Public Works urges and supports the within application with respect to the Massachusetts segment of the line in order that it may avoid an expense of approximately \$1,500,000 in the maintenance and rehabilitation of two highway bridges over that segment.

7) O. Name, title, address and telephone number of representative of applicant to whom correspondence should be sent.

A. Sidney Weinberg, Esquire  
Boston and Maine Corporation  
150 Causeway Street  
Boston, Massachusetts 02114

8) O. Statement of Requirements for Responses to Application.

A. Responses to this application may be submitted to the Commission within 30 days, and must conform to 49 CFR 1121.62, a copy of which follows.

§1121.62 Responses to the application.

(a) Filing. The original and six copies of responses to the application shall be filed with the Commission within 30 days of the filing of the application. A copy of each response shall be concurrently served on the carrier and Bankruptcy Court. A certificate of service shall accompany the response.

(b) Verification. Each response shall be verified.

State of \_\_\_\_\_ ss. County  
of \_\_\_\_\_

(name of affiant)  
makes oath and says that he has been authorized to verify and file with the Interstate Commerce Commission the foregoing response in AB-

\_\_\_\_\_, (Sub-No. \_\_\_\_\_), that he has carefully examined all of the statements in the response; that he has knowledge of the facts and matters relied upon; and that all representations set forth are true and correct to the best of his knowledge, information, and belief.

(Signature) \_\_\_\_\_  
Subscribed and sworn to before me \_\_\_\_\_  
in and for the State and County above  
named, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_.  
My commission expires \_\_\_\_\_

c. Warning. The Commission will not consider untimely, unserved or unverified responses.

9)

CERTIFICATE OF SERVICE

I certify that I have this day served the foregoing application upon the Governor of The Commonwealth of Massachusetts and Governor of the State of New Hampshire by mailing a copy thereof to each of them by certified mail, postage prepaid and properly addressed and that I have served the foregoing application upon The Department of Public Utilities and the Secretary, Executive Office of Transportation and Construction of the Commonwealth of Massachusetts, and upon the Public Utilities Commission and the Director, Transportation Division of the Department of Public Works and Highways of the State of New Hampshire by mailing a copy thereof to each of them, first class mail, postage prepaid and properly addressed.

Dated at Boston, Massachusetts, this 23rd day of  
December , 19 81 .

Sidney Weinberg



1121.61(b) CONDITIONS OF PROPERTIES

1) Q. What is the present physical condition of the line including any operating restrictions and estimate of rehabilitation costs?

A. See Verified Statement of Richard F. Dixon, Applicant's Engineer of Track, Maintenance of Way, attached hereto as Exhibit 3.

- 2) O. Statement whether the line, or any portion of line, could be operated profitably if necessary rehabilitation were performed.
  - A. The line could not be operated profitably if the necessary rehabilitation were performed.

REQUIREMENTS FOR FURTHER APPLICATION INFORMATION NOT APPLICABLE

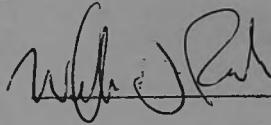
The responses to the application information contained in 49 C.F.R. 1121.61(c), (d), (e) and (g) are not pertinent to this application since no railroad operations have been conducted on the line for at least five years, except that, in response to the information requested in 49 C.F.R. 1121.61(e)(1), the population of Seabrook, NH is 5,917; the population of Salisbury, MA is 5,973 and the population of Newburyport, MA is 15,900; Source: 1980 U. S. Census.

The Verified Statements of Richard F. Dixon and Justin L. Radlo, Chief Engineer of the Mass. Department of Public Works are appended hereto and marked, respectively, Exhibit 3 and Exhibit 4.

State of Massachusetts

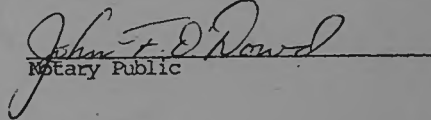
County of \_\_\_\_\_

William J. Rennie, Vice President  
Boston and Maine Corporation, Debtor makes oath and says that he  
 has been authorized to verify and file with the Interstate Commerce  
 Commission the foregoing response in AB-32 (Sub No. 17F ); that he has  
 carefully examined all of the statements in the response; that he has  
 knowledge of the facts and matters relied upon; and that all  
 representations set forth are true and correct to the best of his  
 knowledge, information and belief.




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Subscribed and sworn to before me \_\_\_\_\_ in  
 and for the State and County above named, this 2nd day of December  
 1981.

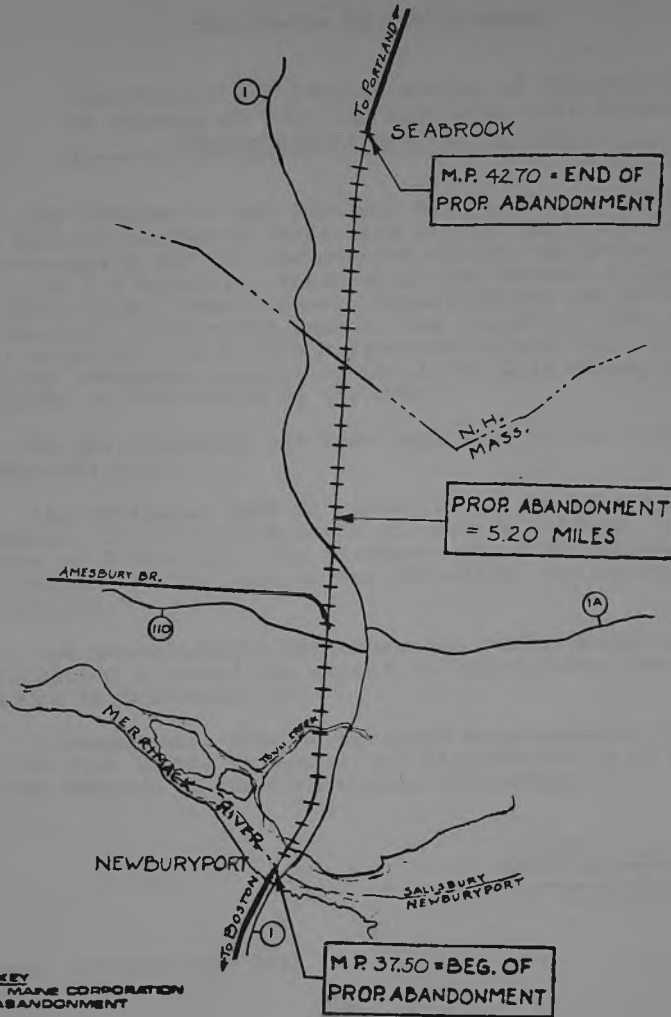



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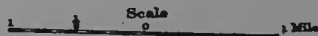
 Notary Public

My Commission Expires:

My Commission Expires: Feb. 6, 1987



**BOSTON AND MAINE CORPORATION  
 PROPOSED ABANDONMENT OF LINE  
 BETWEEN  
 NEWBURYPORT, MASS. AND SEABROOK, N. H.  
 M.P. 37.50 TO M.P. 42.70 = 5.20 MILES  
 OFFICE OF VICE PRESIDENT - ENGINEERING, NO. BILLERICA, MASS.  
 MAY 13, 1981**



Memorandum to the Trustees

Abandonment and Discontinuance of Operations  
of Segment of Portland Main Line East Route,  
Massachusetts and New Hampshire

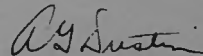
The segment of the Portland Main Line East Route proposed for discontinuance of operations within the Commonwealth of Massachusetts and for abandonment within the State of New Hampshire is 5.2 miles in length extending between milepost 37.50 in Newburyport, Essex County, Massachusetts and milepost 42.70 in Seabrook, Rockingham County, New Hampshire (The line). 3.94 miles of line within Massachusetts are owned by the MBTA. The New Hampshire segment of the line, 1.26 miles in length, is included in the estate of the Debtor.

No rail business has been generated by the line in the historical past.

The estimated cost to rehabilitate the line to FRA Class 1 standard, including the costs to restore bridges, is approximately \$1.2 million. The estimated net liquidation value of the portion of the line in New Hampshire, including land resale is \$24,624.00.

The Massachusetts Department of Public Works supports the application to avoid the expense of maintaining two highway bridges in Salisbury, MA.

I recommend a vote authorizing abandonment of the segment of the line in New Hampshire and discontinuance of operations on the segment of the line within Massachusetts.



---

A. G. Dustin

Dated: November 25, 1981

CERTIFICATE OF VOTE

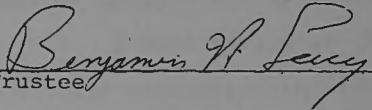
I, the undersigned Benjamin H. Lacy, one of the Trustees of the property of Boston and Maine Corporation, in reorganization, hereby certify that at a meeting of the Trustee group held on November 30, 1981, at which both Trustees were present, there was presented a memorandum from Alan G. Dustin, President, to the Trustees on the subject of abandonment of the segment of the Portland Main Line East Route, approximately 1.26 miles in length, extending between the New Hampshire/Massachusetts state line at milepost B41.44 and milepost B42.70, all in Seabrook, Rockingham County, New Hampshire and discontinuance of operations on a segment of Portland Main Line East Route, approximately 3.94 miles in length, extending between milepost B37.50 and milepost B41.44, all in Newburyport and Salisbury, Essex County, Massachusetts, a copy of which memorandum is attached to this certificate, and that after discussion of the matter with Mr. Dustin, the Trustees duly

VOTED: To authorize appropriate application for abandonment of the segment of the Portland Main Line East Route, approximately 1.26 miles in length, extending between the New Hampshire/Massachusetts state line at milepost B41.44 and milepost B42.70, all in Seabrook, Rockingham County, New Hampshire and to discontinue operations on a segment of the Portland Main Line East Route, approximately 3.94 miles in length, extending between mile-

post B37.50 and milepost B41.44, all in Newburyport and Salisbury, Essex County, Massachusetts, having determined that such abandonment and discontinuance of operations are in the interests of the Debtor's estate without unduly adversely affecting the public interest.

I hereby further certify that the said vote has not been amended, modified or revoked and is now in full force and effect.

ATTEST:

  
Trustee

Dated: December 15, 1981

DOCKET NO. AB-32 (Sub No. 17F)

Exhibit No. 3 - Page 1 of 8

Witness: Richard F. Dixon

My name is Richard F. Dixon. I am employed by the Boston and Maine Corporation as Engineer of Track, Maintenance of Way. My business address is Iron Horse Park, No. Billerica, MA.

After attending Plymouth State College, I was employed by the Boston and Maine as a Trackman in December of 1969. I was promoted through the ranks, becoming a Track Foreman in 1972, a Track Supervisor in 1977, Roadmaster in 1978 and my present position as Engineer of Track in 1981. I have worked at various capacities in the Engineering Department throughout the entire system.

My responsibility as Engineer of Track, Maintenance of Way, requires all the maintenance and budgeting responsibility for the entire 2,275 miles of track of the Boston and Maine Corporation throughout the Commonwealth of Massachusetts and the States of Maine, New Hampshire, Vermont and New York. In 1981, I was responsible for the budgeting, cost analysis, and installation of over 106,000 new ties and the surfacing of over 142 miles of track.

Presently, I am a member of the Roadmasters and Maintenance of Way Association of America. I am also a certified Federal Railroad Administration Safety Inspector.



I am familiar with the physical condition of the Portland Maine Line East Route, having made my last personal inspection of this line on a December 11, 1980 hyrail trip.

The segment of the Portland Main Line East Route for which discontinuance of operations, in part, and abandonment, in part, are sought, is a single track line extending from Newburyport, Massachusetts to Seabrook, New Hampshire, a distance of 5.2 miles, B&M mileposts B 37.50 to B 42.70. The 3.94 miles of line in Massachusetts is owned by the Massachusetts Bay Transportation Authority. The 1.26 miles of line in New Hampshire, is owned by the Boston and Maine.

The general physical condition of the line is poor and is below FRA standard for Class I track. The maximum timetable speed is 10 m.p.h. and the maximum allowable gross weight of car and lading is 220,000 lbs.

The 5.2 miles of track is laid with 85# rail and 85# relaid rail on treated and cedar ties on combination cinder and gravel ballast. Field inspection reveals that the rail is adequate for FRA Class I.

There are 3 curves, the maximum curvature being 2°, with an average degree of curvature being 1°. All curves will require spot surfacing to correct elevations and approaches.

The rail is joined with various types of joints, mostly Weber-type which require a wood filler. There are some joints which are continuous and head free. Approximately 112 joints must be changed because of track or mismatch.

The ties are primarily treated although there are still several areas of cedar ties. Three thousand six hundred (3,600) must be changed to maintain Class I FRA track standard. There are also forty-five (45) panels which must be replaced.

The best type of track structure is a well-drained track. Ditches are extremely clogged and there is much standing water. This has brought about a vegetation and brush condition which does not allow the track structure to dry out. This in turn causes pumping joints which require surfacing. The low side of the curves drop off in the wet condition which causes excessive elevation. The ballast is pit run material long since filled with dirt and humus.

I have prepared and attached hereto Appendix A, a map depicting the entire Portland Main Line East Route showing the proposed beginning and proposed end of abandonment.

I studied the Maintenance of Way and Structures expense by B&M in the maintenance of the segments of the line for the calendar years 1978, 1979, 1980, and for the months of 1981. The items of maintenance expense were derived from B&M's records detailing the actual incurred expense for each of those periods.

I personally observed the physical condition of the line by walking numerous locations at various crossings. I made several stops for on-ground inspections wherever the incidence of the

structure condition appeared indicating the level of maintenance below Federal Railroad Administration (FRA) permissible operating levels for Class I track. The minimum level for permissible operation required in the maintenance of cross ties by the FRA Class I standard is that the maximum distance between non-defective cross ties must be no more than 100" center to center.

The FRA Class I minimum level of maintenance also requires that any mismatch of rail at joints may not exceed 1/4" (49 CFR 213.115).

FRA Standard 49 CFR 213.33 drainage requires that, "each drainage or other water carrying facility under or immediately adjacent to the roadbed must be maintained and kept free of obstruction, to accommodate expected water flow from the area concerned."

FRA Standard 49 CFR 213.37 Vegetation. The rule regulates vegetation in brush as to fire, the obstruction of railroad signs, interference of railroad employees performing track side duties, or preventing employees from visually inspecting moving equipment.

From my personal observation, I conclude that the segment of line known as the Portland Main Line East Route is being maintained below FRA Class I level in respect to ties, mismatched joints, ditch and drainage, and brush and weed conditions.

I estimate the B&M's cost to bring the segments of the line up to the minimum permissible level of maintenance provided in FRA Class I Standard is arrived at as follows:

Replacing 3,600 ties @ \$42/tie	\$ 151,200.
Replacing 45 panels	45,000.
Ditching 5.2 miles of track @ \$4,830/mi	25,116.
Spot surface and joints .5 miles @ \$805/mi	403.
Cutting brush and weed spray - entire branch	5,107.
Rails - Class I condition	0
Culverts	2,500.
Bridges	<u>984,000.</u>
TOTAL COST TO RESTORE LINE TO CLASS I STANDARD	\$1,213,326.

I have prepared and attached hereto Appendix B, the estimated liquidation value of the segment of the line wholly owned by the Boston and Maine. The land values were furnished to me by Witness E. J. Marrs.

Richard F. Dixon  
Richard F. Dixon  
Engineer of Track

Dated 11/12/81

VERIFICATION

State of Massachusetts

County of Middlesex

ss:

Richard F. Dixon being duly sworn, deposes  
and says that he has read the foregoing statement, knows  
the facts asserted therein, and that the same are true as  
stated.

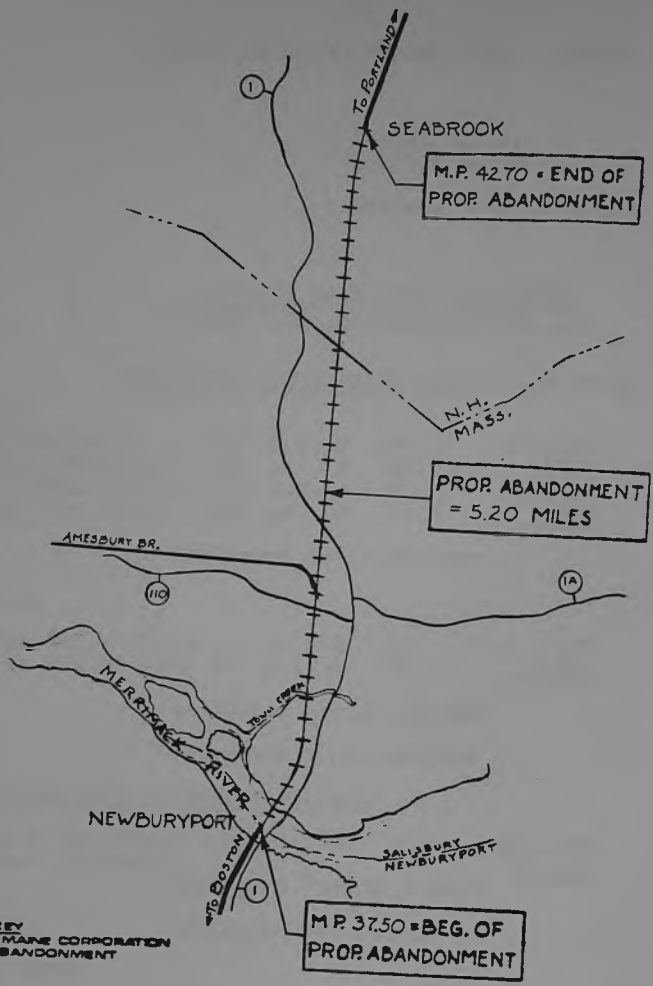
(Signed) Richard F. Dixon

Subscribed and sworn to before me this 12th day  
of November, 1981.

Notary Public of Massachusetts

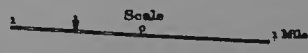
My Commission expires My Commission Expires Feb. 6, 1987.

Notary Public John F. O'Donnell



**KEY**  
 ——— BOSTON AND MAINE CORPORATION  
 ++++ PROPOSED ABANDONMENT  
 ——— HIGHWAYS

**BOSTON AND MAINE CORPORATION  
 PROPOSED ABANDONMENT OF LINE  
 BETWEEN  
 NEWBURYPORT, MASS. AND SEABROOK, N. H.  
 M.P. 37.50 TO M.P. 42.70 = 5.20 MILES  
 OFFICE OF VICE PRESIDENT - ENGINEERING, NO. BILLERICA, MASS.  
 MAY 13, 1981**



BOSTON AND MAINE CORPORATION - DEBTOR

Docket Number  
Exhibit Number

Witness: R. F. Dixon

PORTLAND MAIN LINE EAST ROUTE  
NEWBURYPORT, MA TO SALISBURY, NH

ESTIMATED LIQUIDATION VALUE (1.26 miles)

TRACK

Rail 85# Relay	190	N.T. @	240.	\$45,600
Joints 85# Relay	300	ea @	12.	3,600
Misc. Small Scrap	44	G.T. @	80.	3,520
Cross Ties Relay	250	ea @	4.	<u>1,000</u>

Estimated Track Salvage \$53,720

BRIDGE

Bridge #41.42 Scrap	10	G.T. @	57.	\$ 570
Bridge #39.99 Scrap	40	G.T. @	57.	<u>2,280</u>

Estimated Bridge Salvage \$ 2,850

Estimated Gross Salvage \$56,570

ESTIMATED COST TO REMOVE SALVAGE

Track & Fastenings	6,653 ft. @	2.00	\$13,306
Bridges (Contract)			<u>39,000</u>

Estimated Cost to Remove \$52,306

Estimated Net Salvage \$ 4,264

LAND VALUE

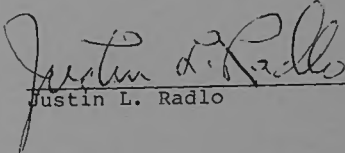
\$20,000

TOTAL NET SALVAGE \$24,264

VERIFIED STATEMENT OF JUSTIN L. RADLO

I am Justin L. Radlo. My business address is Massachusetts Department of Public Works, 100 Nashua Street, Boston, MA, 02114. I am the Chief Engineer of the Department.

The Department of Public Works supports the application of Boston and Maine Corporation, Debtor (B&M) for authority to discontinue operations on the segment of the Portland Main Line East Route in Salisbury, MA, because such discontinuance of operations will enable the Department to avoid an expense of approximately \$1,500,000 in the maintenance and rehabilitation of two (2) highway bridges over the line of railroad at Mudnock Road (MA Bridge No. S-2-2 ) and Elm Street (MA Bridge No. S-2-1 ), both in Salisbury, MA.

  
Justin L. Radlo

Dated: November 5, 1981

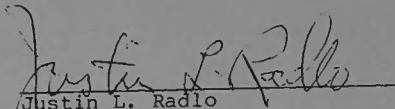


VERIFICATION

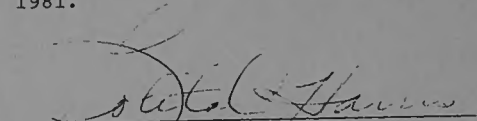
Commonwealth of Massachusetts  
County of Suffolk

ss:

Justin L. Radlo, being duly sworn, deposes and says that he has read the foregoing statement, knows the facts asserted therein, and that the same are true as stated.

  
Justin L. Radlo

Subscribed and sworn to before me this 5<sup>th</sup> day of  
November, 1981.

  
Notary Public of the  
Commonwealth of Massachusetts

My Commission Expires:

*7/88*

April 7, 1982

To Interested Parties

Re: U. S. District Court for the District  
of Massachusetts - No. 70-250-M,  
In the Matter of Boston and Maine  
Corporation, Debtor - Petition for Order  
No. 634 - Abandonment and discontinuance of  
Operations on Portland Main Line East Route  
between Newburyport, MA and Seabrook, N.H.

Gentlemen:

Enclosed is a copy of the Memorandum and Order of the Court in the above-captioned matter, entered April 1, 1982, authorizing abandonment and discontinuance of operations on the respective segments of the subject line of railroad.

Sincerely,

Sidney Weinberg

SW/mon  
Enclosure

bcc: A. G. Dustin  
P. W. Carr  
V. R. Terrill  
S. B. Culliford  
M. V. Smith  
E. J. Marrs  
B. E. Rice  
J. F. Adams - Certified copy herewith for filing.

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

SW

In the Matter of  
BOSTON AND MAINE CORPORATION,  
Debtor

I hereby attest and certify on  
4-5-82, that the  
foregoing document is a full,  
true and correct copy of the  
original on file in my office,  
and in my legal custody

GEORGE F. McGRATH  
CLERK, U.S. DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

MEMORANDUM AND ORDER  
on

BY: *[Signature]* Deputy

Motion of Trustees of Debtor for Authority  
to Abandon and to Discontinue Operations on Segments of  
Portland Main Line East Route

MURRAY, Senior District Judge

The motion for an order authorizing the Trustees, pursuant to Rule 8-512(b) of the Bankruptcy Rules, to abandon a segment of the line of railroad known as "the Portland Main Line East Route" in the State of New Hampshire and to discontinue operations on a segment of the line in Massachusetts, came on to be heard on March 23, 1982, after the filing of the report of the Interstate Commerce Commission (ICC) pursuant to Section 1170(b) of the Bankruptcy Act (11 U.S.C. § 1170(b)), and after notice of the time and place of the hearing to the persons, agencies and entities specified in 11 U.S.C. § 1170(c). At the hearing, counsel for the Trustees called witnesses and presented evidence, which was not controverted. No objections to the abandonment or to the discontinuance of operations were raised.

The segment of the Portland Main Line East Route is a line of railroad approximately 1.26 miles in length between milepost B 41.44 at the Massachusetts/New Hampshire state line to milepost B 42.70, in the town of Seabrook, Rockingham County, New Hampshire. The Debtor reserved an easement for railroad purposes by the deed to the Massachusetts Bay Transportation Authority, dated December 24, 1976, in a contiguous segment of the line of railroad, approximately 3.94 miles in length between milepost B 37.50 in the City of Newburyport to milepost B 41.44 in the town of Salisbury, in Essex County, Massachusetts.

The Trustees considered the question of abandonment and

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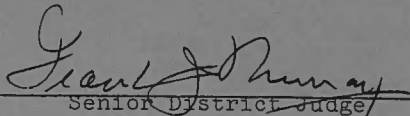
discontinuance of operations at their meeting on December 15, 1981, upon the report and recommendation of Mr. Dustin, president and chief operating officer of the railroad, which was accepted as evidence by the court in this hearing, and voted unanimously to authorize appropriate application for abandonment and for discontinuance of operations. The report of the ICC in Finance Docket No. AB-32 (Sub-No. 17) recommended that the court authorize the Trustees to abandon the 1.26 mile segment of line and to discontinue operations over the 3.94 mile segment of line and stated that the Railway Labor Executives' Association requested that if abandonments are authorized, the employee protective conditions in Oregon Short Line RR Co.-Abandonment-Goshen, 360 ICC 91 (1979) be imposed.

The evidence offered at the hearing satisfied the court that abandonment of the 1.26 mile segment of line and discontinuance of operations over the 3.94 mile segment of line is in the best interest of the estate of the Debtor, in the public interest, and not in derogation of the ultimate reorganization of the Debtor. Accordingly, it is hereby

ORDERED:

1. That the Trustees are authorized to abandon the segment of the Portland Main Line East Route approximately 1.26 miles in length between milepost B 41.44 at the Massachusetts/New Hampshire state line to milepost B 42.70, in the town of Seabrook, Rockingham County, New Hampshire.
2. That the Trustees are authorized to discontinue operations on the segment of the Portland Main Line East Route approximately 3.94 miles in length between milepost B 37.50 in the City of Newburyport to milepost B 41.44 in the town of Salisbury, Essex County, Massachusetts.
3. That the Trustees are authorized to utilize elsewhere on the Debtor's railroad system, and to sell or otherwise dispose of, such materials as may be recovered from the abandoned line.
4. That upon the abandonment of the line hereby authorized,

the Trustees shall observe and comply with the conditions concerning employee protection set forth in Oregon Short Line RR Co.-Abandonment-Goshen, 360 ICC 91 (1979).

  
Senior District Judge

Dated April 1, 1982

DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF MASSACHUSETTS

In Proceedings for the Reorganization of a Railroad

.....

In the Matter of	.	
	.	
BOSTON AND MAINE CORPORATION	.	No. 70-250-M
	.	
Debtor	.	

.....

CERTIFICATE OF SERVICE OF ORDER OF NOTICE

I, Sidney Weinberg, Attorney for the Trustees, hereby certify that, pursuant to order of notice entered on March 9, 1982, I gave notice as therein directed of a hearing to be held on March 23, 1982, at 11:00 a.m., in the Court, John W. McCormack Post Office and Courthouse Building, Post Office Square, Boston, Massachusetts, upon the petition of Robert W. Meserve and Benjamin H. Lacy, Trustees in Reorganization of the property of the Debtor, for authority to abandon and discontinue operations on segments of the Portland Main Line East Route, New Hampshire and Massachusetts, as more particularly described in said petition, by mailing copies of the Order of Notice, the within petition including Appendix "A" thereto and the report of the Interstate Commerce Commission thereon to the Interstate Commerce Commission, the U. S. Secretary of Transportation, all parties in interest in these proceedings or their counsel, and any affected shipper or community by regular mail, postage

prepaid, on March 11, 1982. A list of said parties  
and/or counsel of record is attached hereto and  
identified as Appendix "A".

---

Attorney for Trustees in  
Reorganization of Boston  
and Maine Corporation,  
Debtor

John J. Coffey, Esquire  
Executive Office of Transp.  
One Ashburton Place  
Boston, MA 02108

John T. Collins, Esquire  
One Beacon Street  
Boston, MA 02108

Joseph H. B. Edwards, Esquire  
100 Federal Street  
Boston, MA 02110

Clifford Elkins, Esquire  
N.Y. State Dept. of Transp.  
1220 Washington Ave., Bldg. 5  
Albany, N. Y. 12226

Chester H. Lopez, Jr., Esquire  
11 Concord Street  
Nashua, New Hampshire 03060

Hirsh Freed, Esquire  
One Federal Street  
Boston, MA 02110

Paul B. Galvani, Esquire  
225 Franklin Street  
Boston, MA 02110

Michael Haley, Esquire  
FRA - Dept. of Transportation  
400 Seventh Street, S.W.  
Washington, D.C. 20591

Hon. Edward F. Harrington  
U. S. Attorney - Mass.  
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Bangor, Maine 04410

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Alan L. Lefkowitz, Esquire  
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Thomas F. Patton and  
Ralph S. Tyler, Jr., Trustees  
Erie Lackawanna Railway  
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Thomas R. Kiley, Esquire  
Asst. Attorney General  
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First National Bank-Boston  
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Interstate Commerce Commission  
Washington, D.C. 20423

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Department of Transportation  
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Boston, MA 02133

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Department of Public Utilities  
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and Construction  
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Railway Labor Building  
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Board of Selectmen  
Town of Salisbury  
Town Hall  
Salisbury, MA 01950

Hon. Hugh J. Gallen  
State House - Room 208  
Concord, NH 03301

Michael Love, Chairman  
New Hampshire Public Utilities Commission  
8 Old Suncook Road  
Concord, NH 03301

John McAuliffe, Director  
Transportation Division  
Department of Public Works and Highways  
85 Loudon Road  
Concord, New Hampshire 03301

Justin L. Radlo, Chief Engineer  
Department of Public Works  
100 Nashua Street  
Boston, MA 02114

Gino L. Palmacci, Director  
Real Estate Department  
Massachusetts Bay Transportation Authority  
50 High Street  
Boston, Massachusetts 02110

Board of Selectmen  
Town of Seabrook, New Hampshire  
Town Hall  
Seabrook, New Hampshire

Hon. Richard E. Sullivan  
Mayor, City of Newburyport  
City Hall  
Newburyport, MA 01950

March 23, 1982

Cino Palmacci, Director  
Real Estate Department  
Massachusetts Bay Transportation Authority  
50 High Street  
Boston, MA 02110

Re: Highway Bridges at Sudcock Road and  
Flis Street, Salisbury, Massachusetts  
Segment, Portland Main Line East Route

Dear Mr. Palmacci:

A hearing was held before the Bankruptcy Court on March 23, 1982 on the petition of the Trustees of the property of Boston and Maine Corporation, Debtor (B&M) for authority to discontinue operations on a segment of the above-captioned line of railroad between Newburyport and the Massachusetts/New Hampshire State Line (U.S. District Court for the District of Massachusetts, In the Matter of Boston and Maine Corporation, Debtor, No. 70-250-M, Petition for Order No. 634).

The line segment is owned by the Massachusetts Bay Transportation Authority (M.B.T.A.) subject to an easement to B&M for the operation of trains for freight transportation purposes.

At the hearing, testimony was offered by the Massachusetts Department of Public Works through its engineer, Chester I. Redmond, that the Commonwealth of Massachusetts would save approximately one and one-half million dollars if freight operations on the line segment were authorized to be discontinued because the department would save that amount of expense if it were able to remove the bridges and fill the span for highway purposes against what its costs would be to reconstruct and repair the existing bridges. He also testified that the repair and reconstruction of these

Gino Palmacci, Director  
Massachusetts Bay Transportation Authority  
Page 2  
March 23, 1982

bridges were high in the priorities of the department.

Because the property is owned by the MBTA and the fill of the bridge spans could not be accomplished without the consent of MBTA, the Bankruptcy Court (Murray, Senior District Judge) took the matter under advisement without closing the hearing and subject to testimony from MBTA as to its willingness to allow the Commonwealth of Massachusetts to fill in the said bridge spans on the right of way of this line segment.

Would you kindly study the foregoing matter and advise me of the name of the witness whom you designate to testify at the adjourned hearing in regard thereto.

Very truly yours,

Sidney Weinberg

SW/won

cc: Justin L. Radlo, Chief Engineer  
Chester I. Redmond, Engineer  
Mass. Department of Public Works

I hereby attest and certify on 3-10-82, that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

Petition for Order No. 634

GEORGE F. McBRATH  
CLERK, U.S. DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

BY G. B. Smith Deputy DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF MASSACHUSETTS

In Proceedings for the Reorganization of a Railroad

.....  
In the Matter of .....  
BOSTON AND MAINE CORPORATION ..... No. 70-250-M  
Debtor .....  
.....

ORDER OF NOTICE RELATIVE  
TO PETITION FOR ORDER NO. 634

The verified petition of the Trustees of the Debtor's property for authority to abandon a segment of a line of railroad, the Portland Main Line East Route, so-called, approximately 1.26 miles in length, extending from Milepost B41.44 to Milepost B42.70, all in the Town of Seabrook, Rockingham County, New Hampshire, and for authority to discontinue operations on a contiguous segment thereof, approximately 3.94 miles in length, extending from Milepost B37.50 in the Town of Newburyport to Milepost B41.44 in the Town of Salisbury, all in Essex County, Massachusetts, having been filed herein and verified affidavits in support of the said petition having been filed herein (Appendix A) and the Court having received the report of the Interstate Commerce Commission on the within petition, decided February 23, 1982, served February 25, 1982, pursuant to the provisions of Section 1170(b) of the Bankruptcy Act (11 U.S.C. 1170[b]), it is

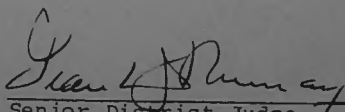
ORDERED:

1. That the Trustees shall give notice to all parties in interest that the Court has set March 23, 1982, at 11:00 A.M. as the return day and hearing date of this petition.

2. Said notice shall be given by mailing copies of this Order, the said petition including "Appendix A" thereto and said report of the Interstate Commerce Commission to the Interstate Commerce Commission, the U.S. Secretary of Transportation, all parties in interest in these proceedings or their counsel and any affected shipper or community by regular mail, postage prepaid at least ten (10) days prior to said return day.

3. Any party objecting to the allowance of said petition or any part thereof, shall show cause why the petition should not be granted by filing with the Clerk of this Court his objections in writing not later than seventy-two (72) hours prior to said return day. (When the return date is on a Monday or a Tuesday the written objections shall be filed not later than 5:00 p.m. on the Thursday preceding). If the party opposing this petition seeks to contest an issue of fact material to the petition, he shall do so by affidavits in compliance with Fed. R. Civ. P. 56(e) and (f) made applicable to these proceedings by Bankruptcy Rule 756. If the party opposing the petition seeks to argue that the petition should be denied as a matter of law, he shall set forth his legal argument in a short memorandum containing the law upon which he relies.

5. If there is no opposition to this petition as to an issue of material fact then the Court shall reserve the matter and take it under advisement.

  
Senior District Judge

Dated: March 9, 1982

DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF MASSACHUSETTS

In Proceedings for the Reorganization of a Railroad

.....

In the Matter of .

BOSTON AND MAINE CORPORATION . No. 70-250-M

Debtor .

.....

ORDER OF NOTICE RELATIVE  
TO PETITION FOR ORDER NO. 634

The verified petition of the Trustees of the Debtor's property for authority to abandon a segment of a line of railroad, the Portland Main Line East Route, so-called, approximately 1.26 miles in length, extending from Milepost B41.44 to Milepost B42.70, all in the Town of Seabrook, Rockingham County, New Hampshire, and for authority to discontinue operations on a contiguous segment thereof, approximately 3.94 miles in length, extending from Milepost B37.50 in the Town of Newburyport to Milepost B41.44 in the Town of Salisbury, all in Essex County, Massachusetts, having been filed herein and verified affidavits in support of the said petition having been filed herein (Appendix A) and the Court having received the report of the Interstate Commerce Commission on the within petition, decided February 23, 1982, served February 25, 1982, pursuant to the provisions of Section 1170(b) of the Bankruptcy Act (11 U.S.C. 1170(b)), it is

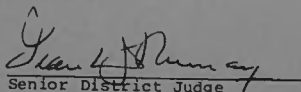
ORDERED:

1. That the Trustees shall give notice to all parties in interest that the Court has set March 23, 1982, at 11:00 A.M. as the return day and hearing date of this petition.

2. Said notice shall be given by mailing copies of this Order, the said petition including "Appendix A" thereto and said report of the Interstate Commerce Commission to the Interstate Commerce Commission, the U.S. Secretary of Transportation, all parties in interest in these proceedings or their counsel and any affected shipper or community by regular mail, postage prepaid at least ten (10) days prior to said return day.

3. Any party objecting to the allowance of said petition or any part thereof, shall show cause why the petition should not be granted by filing with the Clerk of this Court his objections in writing not later than seventy-two (72) hours prior to said return day. (When the return date is on a Monday or a Tuesday the written objections shall be filed not later than 5:00 p.m. on the Thursday preceding). If the party opposing this petition seeks to contest an issue of fact material to the petition, he shall do so by affidavits in compliance with Fed. R. Civ. P. 56(e) and (f) made applicable to these proceedings by Bankruptcy Rule 756. If the party opposing the petition seeks to argue that the petition should be denied as a matter of law, he shall set forth his legal argument in a short memorandum containing the law upon which he relies.

5. If there is no opposition to this petition as to an issue of material fact then the Court shall reserve the matter and take it under advisement.

  
Senior District Judge

Dated: March 9, 1982

## REPORT

FEB 25 1982

Docket No. AB-32 (Sub-No. 17)

ROBERT W. MESERVE AND BENJAMIN H. LACY  
 TRUSTEES OF THE BOSTON AND MAINE CORPORATION - ABANDONMENT AND  
 DISCONTINUANCE (PORTION) - PORTLAND MAIN LINE EAST ROUTE

Docket No. AB-32 (Sub-No. 18)

ROBERT W. MESERVE AND BENJAMIN H. LACY  
 TRUSTEES OF THE BOSTON AND MAINE CORPORATION - ABANDONMENT -  
 AMESBURY BRANCH

Decided: February 23, 1982

The Trustees of the Boston and Maine Corporation (B&M) filed these proposals (1) to abandon a segment of its Portland Main Line East Route (Portland Route) extending approximately 1.26 miles between Milepost B41.44 and Milepost B42.70 in the Town of Seabrook, Rockingham County, NH and to discontinue service over an adjoining segment of the Portland Route extending approximately 3.94 miles between Milepost B41.44 in the Town of Salisbury, MA, and Milepost B37.50 in the Town of Newburyport, Essex County, MA<sup>1/</sup> and (2) to abandon its Amesbury Branch extending approximately 3.71 miles between Milepost 0.0 in the Town of Salisbury (where it connects with the Portland Route) and Milepost 3.71 in the Town of Amesbury, Essex County, MA.

These proposals are governed by the Milwaukee Railroad Restructuring Act, 45 U.S.C. 900 et. seq. (MRR). The B&M's Reorganization Court directed us to report pursuant to 11 U.S.C. 1170(b) on these proposals by March 1, 1982. In compliance with the Court's directives, we submit this report recommending that the Court authorize the abandonments.

B&M's applications are being handled under our procedures in Sub-Part F of 49 CFR 1121, promulgated in Ex Parte No. 274 (Sub-No. 4), Abandonment Procedures for Bankrupt Railroads, 360 I.C.C. 615 (1979). Under these procedures, B&M is not required to profile a system diagram map or comply with publishing and posting requirements. B&M certified that it served copies of the applications on appropriate State officials and agencies. B&M is not required to file environmental information because Section 19 of MRR exempts B&M abandonments from the National Environmental Policy Act.

Under 11 U.S.C. 1170(a), the Court may authorize these abandonments if they are determined to be in the best interest of B&M's estate or essential for the formation of a reorganization plan, and if they are found not to unduly or adversely affect the public interest.

<sup>1/</sup> The segment of the Portland Route in Massachusetts is owned by the Massachusetts Bay Transportation Authority. B&M operates the line under an easement.



PUBLIC INTEREST

We believe abandonment of these lines is consistent with the public interest. B&M has performed no operations over the 5.20 mile portion of the Portland Route for the past 5 years because there has been no demand for service. The line is below minimum Federal Railroad Administration (FRA) Class I standards. B&M's cost to rehabilitate the line to meet FRA Class I standards is estimated to be \$1,213,326.

The Massachusetts Department of Public Works supports B&M's proposal to discontinue operations over the Portland Route at Salisbury, MA. Discontinuance by B&M would enable the Department to avoid an estimated \$1.5 million for rehabilitation and maintenance expenses for two highway bridges at Salisbury.

The Amesbury Branch has not been operated by B&M for the past 5 years. The line is below minimum FRA Class I standards and has been embargoed since November, 1980. B&M's cost to restore the line to FRA Class I operating condition is estimated to be \$146,235.

BENEFITS TO ESTATE

Abandonment of these lines would benefit B&M's estate. B&M would no longer be obligated to incur expenses for maintenance and rehabilitation of these lines. It would also be able to reinvest the \$160,182 assets it has tied up in the lines in its reorganized system or use the assets to pay the debts.

LABOR PROTECTION

The only objection to the abandonment proposals has been submitted by the Railroad Labor Executives' Association (RLEA). RLEA requests that if abandonments are authorized, we should impose the employee protective conditions in Oregon Short Line R. Co. - Abandonment - Goshen, 360 I.C.C. 91 (1979), with modifications. The MRR authorizes the court, rather than this Commission, to impose appropriate employee protective conditions should it authorize the abandonments. Thus, we need not address this matter further.

CONCLUSION

We recommend that the Court authorize B&M to abandon and discontinue service over the above-described portions of the Portland Route and to abandon its Amesbury Branch. These lines do not conform with the minimum FRA Class I standards. To restore service, B&M would have to invest \$1,359,561 to rehabilitate these lines. Since these lines do not generate revenue for B&M at present, any investment for rehabilitation is not warranted. No shipper has objected to these proposals, indicating that any adverse effect would be minimal.

Abandonment of these lines would also benefit B&M's estate by enabling it to reinvest its assets more productively elsewhere.

RECOMMENDATIONS

1. We recommend that the Court authorize B&M's Trustees to abandon and discontinue service over the above-described segments of its Portland Route and to abandon its Amesbury Branch.

2. If a financially responsible person offers to acquire any portion of these lines for the continuation of rail service by the date the Court considers the abandonment petitions, the Court should postpone the effective date of the abandonment for a reasonable time to permit negotiations.

3. The Court should require B&M's Trustees to keep intact the track and facilities of those portions of the lines subject to an offer of purchase for continuation of rail service. B&M's trustees should be authorized to dispose of portions of the lines not subject to offer to purchase for a continuation of rail service.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Clapp, and Sterrett.

Agatha L. Mergenovich  
Secretary

(SEAL)

DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF MASSACHUSETTS

In Proceedings for the Reorganization of a Railroad

.....  
In the Matter of .  
BOSTON AND MAINE CORPORATION . No. 70-250-M  
Debtor .  
.....

PETITION OF TRUSTEES FOR AUTHORITY TO ABANDON  
AND TO DISCONTINUE OPERATIONS ON SEGMENTS OF  
PORTLAND MAIN LINE EAST ROUTE, MA AND NH

Now come the Trustees and respectfully represent as follows:

1. Included in the property of the Debtor is a segment of a line of railroad, the Portland Main Line East Route, so-called, approximately 1.26 miles in length, extending from Milepost B41.44 at the Massachusetts/New Hampshire State Line to Milepost B42.70, all in the Town of Seabrook, Rockingham County, New Hampshire, together with an easement for railroad purposes retained by the Debtor in its deed to the Massachusetts Bay Transportation Authority, dated December 24, 1976, in a contiguous segment thereof, approximately 3.94 miles in length, extending from Milepost B37.50 in the Town of Newburyport to Milepost B41.44 in the Town of Salisbury, all in Essex County, Massachusetts, both contiguous segments being

hereinafter referred to collectively as  
"the line".

2. The Trustees have considered the interest of the Debtor's estate and of ultimate reorganization and the affect of abandonment of the segment of the line in New Hampshire and of discontinuance of operations on the segment of the line in Massachusetts on the public interest, and have determined that the aforesaid segments of the line should be respectively abandoned and operations thereon discontinued in the interest of the Debtor's estate and of ultimate reorganization, and that such respective abandonment and discontinuance of operations will not unduly adversely affect the public interest.

WHEREFORE, your petitioners pray that:

1. Pursuant to the provisions of Section 1170(b) of the Bankruptcy Act (11 U.S.C. 1170[b]), the Court fix a time within which the Interstate Commerce Commission (Commission) shall report to the Court on the application for abandonment of the segment of the line in New Hampshire and discontinuance of operations on the segment of the line in Massachusetts filed by the Trustees with the Commission and docketed as AB-32 (Sub No. 17F) a copy of which is filed herewith, marked "Appendix A".
2. After receiving the report of the Commission, or expiration of the time fixed by it for the receipt of such report whichever first

occurs, the Court, pursuant to the provisions of Section 1170(c) of the Bankruptcy Act (11 U.S.C. 1170(c)) issue notice of hearing on the within petition to the Commission, the Secretary of Transportation, the Trustees, any party in interest that has requested notice, any affected shipper or community and any other entity prescribed by the Court.

3. After such hearing, pursuant to the provisions of Section 1170(c), the Court enter an order herein.

(a)(1) authorizing the Trustees to abandon the segment of the Portland Main Line East Route in the State of New Hampshire, approximately 1.26 miles in length, extending from Milepost B41.44 at the Massachusetts/New Hampshire state line to Milepost B42.70, all in the Town of Seabrook, Rockingham County, New Hampshire, and

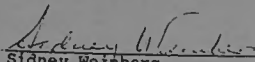
(2) authorizing the Trustees to discontinue operations on the segment thereof in the Commonwealth of Massachusetts, approximately 3.94 miles in length, extending from Milepost B37.50 in the Town of Newburyport to Milepost B41.44 in the Town of Salisbury, all in Essex County, Massachusetts.

(b) authorizing the Trustees, after salvaging such material as may profitably be recovered from said segment of the Portland Main Line East Route in New Hampshire and subject to the limitations of other Orders

entered herein, to sell or otherwise dispose  
of said segment of line of railroad.

(c) authorizing the Trustees to take such  
other steps as may be necessary and proper  
to accomplish the foregoing.

Robert W. Meserve and Benjamin H.  
Lacy, as Trustees of the Property  
of Boston and Maine Corporation,  
Debtor

  
Sidney Weinberg  
150 Causeway Street  
Boston, Massachusetts 02114  
Tel: (617) 227-6000

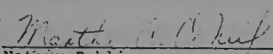
Dated: December 23, 1981

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Boston, Massachusetts  
December 23, 1981

Before me, personally appeared Sidney Weinberg, who  
made oath that the facts stated in the foregoing petition  
are true.

  
Notary Public

My Commission Expires:

*September 7, 1987*

DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF MASSACHUSETTS

In Proceedings for the Reorganization of a Railroad

.....

In the Matter of	.
BOSTON AND MAINE CORPORATION	.
	No. 70-250-M
Debtor	.

.....

PETITION OF TRUSTEES FOR AUTHORITY TO ABANDON  
AND TO DISCONTINUE OPERATIONS ON SEGMENTS OF  
PORTLAND MAIN LINE EAST ROUTE, MA AND NH

Now come the Trustees and respectfully represent as follows:

- Included in the property of the Debtor is a segment of a line of railroad, the Portland Main Line East Route, so-called, approximately 1.26 miles in length, extending from Milepost B41.44 at the Massachusetts/New Hampshire State Line to Milepost B42.70, all in the Town of Seabrook, Rockingham County, New Hampshire, together with an easement for railroad purposes retained by the Debtor in its deed to the Massachusetts Bay Transportation Authority, dated December 24, 1976, in a contiguous segment thereof, approximately 3.94 miles in length, extending from Milepost B37.50 in the Town of Newburyport to Milepost B41.44 in the Town of Salisbury, all in Essex County, Massachusetts, both contiguous segments being

hereinafter referred to collectively as "the line".

2. The Trustees have considered the interest of the Debtor's estate and of ultimate reorganization and the affect of abandonment of the segment of the line in New Hampshire and of discontinuance of operations on the segment of the line in Massachusetts on the public interest, and have determined that the aforesaid segments of the line should be respectively abandoned and operations thereon discontinued in the interest of the Debtor's estate and of ultimate reorganization, and that such respective abandonment and discontinuance of operations will not unduly adversely affect the public interest.

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1. Pursuant to the provisions of Section 1170(b) of the Bankruptcy Act (11 U.S.C. 1170 [b]), the Court fix a time within which the Interstate Commerce Commission (Commission) shall report to the Court on the application for abandonment of the segment of the line in New Hampshire and discontinuance of operations on the segment of the line in Massachusetts filed by the Trustees with the Commission and docketed as AB-32 (Sub No. 17F) a copy of which is filed herewith, marked "Appendix A".
2. After receiving the report of the Commission, or expiration of the time fixed by it for the receipt of such report whichever first



occurs, the Court, pursuant to the provisions of Section 1170(c) of the Bankruptcy Act (11 U.S.C. 1170(c)) issue notice of hearing on the within petition to the Commission, the Secretary of Transportation, the Trustees, any party in interest that has requested notice, any affected shipper or community and any other entity prescribed by the Court.

3. After such hearing, pursuant to the provisions of Section 1170(c)), the Court enter an order herein.

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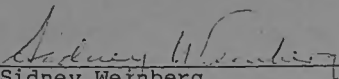
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(b) authorizing the Trustees, after salvaging such material as may profitably be recovered from said segment of the Portland Main Line East Route in New Hampshire and subject to the limitations of other Orders

entered herein, to sell or otherwise dispose  
of said segment of line of railroad.

(c) authorizing the Trustees to take such  
other steps as may be necessary and proper  
to accomplish the foregoing.

Robert W. Meserve and Benjamin H.  
Lacy, as Trustees of the Property  
of Boston and Maine Corporation,  
Debtor

  
\_\_\_\_\_  
Sidney Weinberg  
150 Causeway Street  
Boston, Massachusetts 02114  
Tel: (617) 227-6000

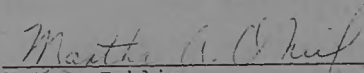
Dated: December 23, 1981

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

Boston, Massachusetts  
December 23, 1981

Before me, personally appeared Sidney Weinberg, who  
made oath that the facts stated in the foregoing petition  
are true.

  
\_\_\_\_\_  
Notary Public

My Commission Expires:

*September 7, 1984*

Memorandum to the Trustees

Abandonment and Discontinuance of Operations  
of Segment of Portland Main Line East Route,  
Massachusetts and New Hampshire

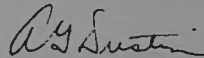
The segment of the Portland Main Line East Route proposed for discontinuance of operations within the Commonwealth of Massachusetts and for abandonment within the State of New Hampshire is 5.2 miles in length extending between milepost 37.50 in Newburyport, Essex County, Massachusetts and milepost 42.70 in Seabrook, Rockingham County, New Hampshire (The line). 3.94 miles of line within Massachusetts are owned by the MBTA. The New Hampshire segment of the line, 1.26 miles in length, is included in the estate of the Debtor.

No rail business has been generated by the line in the historical past.

The estimated cost to rehabilitate the line to FRA Class 1 standard, including the costs to restore bridges, is approximately \$1.2 million. The estimated net liquidation value of the portion of the line in New Hampshire, including land resale is \$24,624.00.

The Massachusetts Department of Public Works supports the application to avoid the expense of maintaining two highway bridges in Salisbury, MA.

I recommend a vote authorizing abandonment of the segment of the line in New Hampshire and discontinuance of operations on the segment of the line within Massachusetts.



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A. G. Dustin

Dated: November 25, 1981

CERTIFICATE OF VOTE

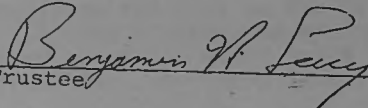
I, the undersigned Benjamin H. Lacy, one of the Trustees of the property of Boston and Maine Corporation, in reorganization, hereby certify that at a meeting of the Trustee group held on November 30, 1981, at which both Trustees were present, there was presented a memorandum from Alan G. Dustin, President, to the Trustees on the subject of abandonment of the segment of the Portland Main Line East Route, approximately 1.26 miles in length, extending between the New Hampshire/Massachusetts state line at milepost B41.44 and milepost B42.70, all in Seabrook, Rockingham County, New Hampshire and discontinuance of operations on a segment of Portland Main Line East Route, approximately 3.94 miles in length, extending between milepost B37.50 and milepost B41.44, all in Newburyport and Salisbury, Essex County, Massachusetts, a copy of which memorandum is attached to this certificate, and that after discussion of the matter with Mr. Dustin, the Trustees duly

VOTED: To authorize appropriate application for abandonment of the segment of the Portland Main Line East Route, approximately 1.26 miles in length, extending between the New Hampshire/Massachusetts state line at milepost B41.44 and milepost B42.70, all in Seabrook, Rockingham County, New Hampshire and to discontinue operations on a segment of the Portland Main Line East Route, approximately 3.94 miles in length, extending between mile-

post B37.50 and milepost B41.44, all in Newburyport and Salisbury, Essex County, Massachusetts, having determined that such abandonment and discontinuance of operations are in the interests of the Debtor's estate without unduly adversely affecting the public interest.

I hereby further certify that the said vote has not been amended, modified or revoked and is now in full force and effect.

ATTEST:

  
Trustee

Dated: December 15, 1981

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I estimate the B&M's cost to bring the segments of the line up to the minimum permissible level of maintenance provided in FRA Class I Standard is arrived at as follows:

Replacing 3,600 ties @ \$42/tie	\$ 151,200.
Replacing 45 panels	45,000.
Ditching 5.2 miles of track @ \$4,830/mi	25,116.
Spot surface and joints .5 miles @ \$805/mi	403.
Cutting brush and weed spray - entire branch	5,107.
Rails - Class I condition	0
Culverts	2,500.
Bridges	<u>984,000.</u>
TOTAL COST TO RESTORE LINE TO CLASS I STANDARD	\$1,213,326.

I have prepared and attached hereto Appendix B, the estimated liquidation value of the segment of the line wholly owned by the Boston and Maine. The land values were furnished to me by Witness E. J. Marrs.

Richard F. Dixon  
Richard F. Dixon  
Engineer of Track

Dated 11/12/81

4

BOSTON AND MAINE CORPORATION - DEBTOR

Docket Number  
Exhibit Number

Witness: R. F. Dixon

PORTLAND MAIN LINE EAST ROUTE  
NEWBURYPORT, MA TO SALISBURY, NH

ESTIMATED LIQUIDATION VALUE (1.26 miles)

TRACK

Rail 85# Relay	190	N.T. @	240.	\$45,600
Joints 85# Relay	300	ea @	12.	3,600
Misc. Small Scrap	44	G.T. @	80.	3,520
Cross Ties Relay	250	ea @	4.	<u>1,000</u>

Estimated Track Salvage \$53,720

BRIDGE

Bridge #41.42 Scrap	10	G.T. @	57.	\$ 570
Bridge #39.99 Scrap	40	G.T. @	57.	<u>2,280</u>

Estimated Bridge Salvage \$ 2,850

Estimated Gross Salvage \$56,570

ESTIMATED COST TO REMOVE SALVAGE

Track & Fastenings	6,653 ft. @	2.00	\$13,306
Bridges (Contract)			<u>39,000</u>

Estimated Cost to Remove \$52,306

Estimated Net Salvage \$ 4,264

LAND VALUE

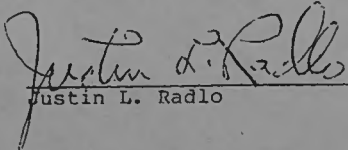
\$20,000

TOTAL NET SALVAGE \$24,264

VERIFIED STATEMENT OF JUSTIN L. RADLO

I am Justin L. Radlo. My business address is Massachusetts Department of Public Works, 100 Nashua Street, Boston, MA, 02114. I am the Chief Engineer of the Department.

The Department of Public Works supports the application of Boston and Maine Corporation, Debtor (B&M) for authority to discontinue operations on the segment of the Portland Main Line East Route in Salisbury, MA, because such discontinuance of operations will enable the Department to avoid an expense of approximately \$1,500,000 in the maintenance and rehabilitation of two (2) highway bridges over the line of railroad at Mudnock Road (MA Bridge No. S-2-2 ) and Elm Street (MA Bridge No. S-2-1 ), both in Salisbury, MA.

  
Justin L. Radlo

Dated: November 5, 1981



FEB 25 1982

Docket No. AB-32 (Sub-No. 17)

ROBERT W. MESERVE AND BENJAMIN H. LACY  
TRUSTEES OF THE BOSTON AND MAINE CORPORATION - ABANDONMENT AND  
DISCONTINUANCE (PORTION) - PORTLAND MAIN LINE EAST ROUTE

Docket No. AB-32 (Sub-No. 18)

ROBERT W. MESERVE AND BENJAMIN H. LACY  
TRUSTEES OF THE BOSTON AND MAINE CORPORATION - ABANDONMENT -  
AMESBURY BRANCH

Decided: February 23, 1982

The Trustees of the Boston and Maine Corporation (B&M) filed these proposals (1) to abandon a segment of its Portland Main Line East Route (Portland Route) extending approximately 1.26 miles between Milepost B41.44 and Milepost B42.70 in the Town of Seabrook, Rockingham County, NH and to discontinue service over an adjoining segment of the Portland Route extending approximately 3.94 miles between Milepost B41.44 in the Town of Salisbury, MA, and Milepost B37.55 in the Town of Newburyport, Essex County, MA<sup>1/</sup> and (2) to abandon its Amesbury Branch extending approximately 3.71 miles between Milepost 0.0 in the Town of Salisbury (where it connects with the Portland Route) and Milepost 3.71 in the Town of Amesbury, Essex County, MA.

These proposals are governed by the Milwaukee Railroad Restructuring Act, 45 U.S.C. 900 *et. seq.* (MRR). The B&M's Reorganization Court directed us to report pursuant to 11 U.S.C. 1170(b) on these proposals by March 1, 1982. In compliance with the Court's directives, we submit this report recommending that the Court authorize the abandonments.

B&M's applications are being handled under our procedures in Sub-Part F of 49 CFR 1121, promulgated in Ex Parte No. 274 (Sub-No. 4), Abandonment Procedures for Bankrupt Railroads, 360 I.C.C. 615 (1979). Under these procedures, B&M is not required to prefile a system diagram map or comply with publishing and posting requirements. B&M certified that it served copies of the applications on appropriate State officials and agencies. B&M is not required to file environmental information because Section 19 of MRR exempts B&M abandonments from the National Environmental Policy Act.

Under 11 U.S.C. 1170(a), the Court may authorize these abandonments if they are determined to be in the best interest of B&M's estate or essential for the formation of a reorganization plan, and if they are found not to unduly or adversely affect the public interest.

<sup>1/</sup> The segment of the Portland Route in Massachusetts is owned by the Massachusetts Bay Transportation Authority. B&M operates the line under an easement.

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PUBLIC INTEREST

We believe abandonment of these lines is consistent with the public interest. B&M has performed no operations over the 5.20 mile portion of the Portland Route for the past 5 years because there has been no demand for service. The line is below minimum Federal Railroad Administration (FRA) Class I standards. B&M's cost to rehabilitate the line to meet FRA Class I standards is estimated to be \$1,213,326.

The Massachusetts Department of Public Works supports B&M's proposal to discontinue operations over the Portland Route at Salisbury, MA. Discontinuance by B&M would enable the Department to avoid an estimated \$1.5 million for rehabilitation and maintenance expenses for two highway bridges at Salisbury.

The Amesbury Branch has not been operated by B&M for the past 5 years. The line is below minimum FRA Class I standards and has been embargoed since September, 1990. B&M's cost to restore the line to FRA Class I operating condition is estimated to be \$146,235.

BENEFITS TO ESTATE

Abandonment of these lines would benefit B&M's estate. B&M would no longer be obligated to incur expenses for maintenance and rehabilitation of these lines. It would also be able to reinvest the \$160,182 assets it has tied up in the lines in its reorganized system or use the assets to pay the debts.

LABOR PROTECTION

The only objection to the abandonment proposals has been submitted by the Railroad Labor Executives' Association (RLEA). RLEA requests that if abandonments are authorized, we should impose the employee protective conditions in Oregon Short Line R. Co. - Abandonment - Goshen, 360 I.C.C. 91 (1979), with modifications. The MRR authorizes the court, rather than this Commission, to impose appropriate employee protective conditions should it authorize the abandonments. Thus, we need not address this matter further.

CONCLUSION

We recommend that the Court authorize B&M to abandon and discontinue service over the above-described portions of the Portland Route and to abandon its Amesbury Branch. These lines do not conform with the minimum FRA Class I standards. To restore service, B&M would have to invest \$1,359,561 to rehabilitate these lines. Since these lines do not generate revenue for B&M at present, any investment for rehabilitation is not warranted. No shipper has objected to these proposals, indicating that any adverse effect would be minimal.

Abandonment of these lines would also benefit B&M's estate by enabling it to reinvest its assets more productively elsewhere.

RECOMMENDATIONS

1. We recommend that the Court authorize B&M's Trustees to abandon and discontinue service over the above-described segments of its Portland Route and to abandon its Amesbury Branch.

2. If a financially responsible person offers to acquire any portion of these lines for the continuation of rail service by the date the Court considers the abandonment petitions, the Court should postpone the effective date of the abandonment for a reasonable time to permit negotiations.

3. The Court should require B&M's Trustees to keep intact the track and facilities of those portions of the lines subject to an offer of purchase for continuation of rail service. B&M's trustees should be authorized to dispose of portions of the lines not subject to offer to purchase for a continuation of rail service.

By the Commission, Chairman Taylor, Vice-Chairman Gilliam, Commissioners Gresham, Clapp, and Sterrett.

Agatha L. Mergenovich  
Secretary

(SEAL)

March 18, 1982

To Interveners and Interested Parties

- Re: U. S. District Court for the District of  
Massachusetts - No. 70-250-M - In the  
Matter of Boston and Maine Corporation, Debtor
- (1) Petition for Order No. 634, Abandonment and  
Discontinuance of operations, segment of  
Portland Main Line East Route, NH and MA
  - (2) Petition for Order No. 635, Abandonment,  
Amesbury Branch, Massachusetts

Gentlemen:

Enclosed herein are copies of the petitions, including  
"Appendix A" thereto (reports of the Interstate Commerce  
Commission) and the orders of notice of hearing in both of  
the above-captioned matters setting hearings thereon for  
Tuesday, March 23, 1982 at 11:00 a.m. before the Court at  
the John W. McCormack Postoffice and Courthouse Building,  
Post Office Square, Boston, MA.

If there are any questions concerning the foregoing  
notice, kindly feel free to communicate with the  
undersigned.

Very truly yours,

Sidney Weinberg  
Attorney for Trustees  
150 Causeway Street  
Boston, MA 02114  
(617) 227-6000

SM/mon  
Enclosures

March 9, 1982

Peter Skarneas, Director of Judicial Operations  
U.S. District Court for the District of Massachusetts  
1825 Courthouse and Post Office Building  
Post Office Square  
Boston, Massachusetts 02108

Re: No. 70-250-W, Petition for Order No. 634

Dear Mr. Skarneas:

Enclosed for filing in the above-captioned matter are the original and two (2) copies of a motion for order of notice of hearing, together with the proposed form thereof.

Very truly yours,

Sidney Weinberg

SW/mon  
Enclosures

DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF MASSACHUSETTS

In Proceedings for the Reorganization of a Railroad

.....  
In the Matter of .  
BOSTON AND MAINE CORPORATION . No. 70-250-M  
Debtor .  
.....

MOTION FOR ORDER OF NOTICE  
RELATIVE TO PETITION FOR ORDER NO. 634

The Trustees move for the issuance of an order of notice of hearing in substantially the form attached hereto and marked Appendix A.

Robert W. Meserve and Benjamin H. Lacy, Trustees of the Property of Boston and Maine Corporation, Debtor

By their attorney,

\_\_\_\_\_  
Sidney Weinberg  
150 Causeway Street  
Boston, MA 02114  
(617) 227-6000

Dated: March 9, 1982

DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF MASSACHUSETTS

In Proceedings for the Reorganization of a Railroad

.....

In the Matter of	.	
	.	
BOSTON AND MAINE CORPORATION	.	No. 70-250-M
	.	
Debtor	.	
	.	

.....

ORDER OF NOTICE RELATIVE  
TO PETITION FOR ORDER NO. 634

The verified petition of the Trustees of the Debtor's property for authority to abandon a segment of a line of railroad, the Portland Main Line East Route, so-called, approximately 1.26 miles in length, extending from Milepost B41.44 to Milepost B42.70, all in the Town of Seabrook, Rockingham County, New Hampshire, and for authority to discontinue operations on a contiguous segment thereof, approximately 3.94 miles in length, extending from Milepost B37.50 in the Town of Newburyport to Milepost B41.44 in the Town of Salisbury, all in Essex County, Massachusetts, having been filed herein and verified affidavits in support of the said petition having been filed herein (Appendix A) and the Court having received the report of the Interstate Commerce Commission on the within petition, decided February 23, 1982, served February 25, 1982, pursuant to the provisions of Section 1170(b) of the Bankruptcy Act (11 U.S.C. 1170[b]), it is

ORDERED:

1. That the Trustees shall give notice to all parties in interest that the Court has set , 1982, at 11:00 A.M. as the return day and hearing date of this petition.

2. Said notice shall be given by mailing copies of this Order, the said petition including "Appendix A" thereto and said report of the Interstate Commerce Commission to the Interstate Commerce Commission, the U.S. Secretary of Transportation, all parties in interest in these proceedings or their counsel and any affected shipper or community by regular mail, postage prepaid at least ten (10) days prior to said return day.

3. Any party objecting to the allowance of said petition or any part thereof, shall show cause why the petition should not be granted by filing with the Clerk of this Court his objections in writing not later than seventy-two (72) hours prior to said return day. (When the return date is on a Monday or a Tuesday the written objections shall be filed not later than 5:00 p.m. on the Thursday preceding). If the party opposing this petition seeks to contest an issue of fact material to the petition, he shall do so by affidavits in compliance with Fed. R. Civ. P. 56(e) and (f) made applicable to these proceedings by Bankruptcy Rule 756. If the party opposing the petition seeks to argue that the petition should be denied as a matter of law, he shall set forth his legal argument in a short memorandum containing the law upon which he relies.

5. If there is no opposition to this petition as to an issue of material fact then the Court shall reserve the matter and take it under advisement.

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Senior District Judge

Dated:



DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF MASSACHUSETTS

In Proceedings for the Reorganization of a Railroad

.....

In the Matter of .

BOSTON AND MAINE CORPORATION . No. 70-250-M

Debtor .

.....

ORDER FIXING A TIME FOR THE REPORT  
OF THE INTERSTATE COMMERCE COMMISSION

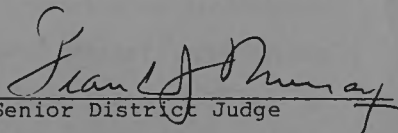
The petition of the Trustees of the Debtor's property for authority to abandon a segment of a line of railroad, the Portland Main Line East Route, so-called, approximately 1.26 miles in length, extending from Milepost B41.44 to Milepost B42.70, all in the Town of Seabrook, Rockingham County, New Hampshire, and for authority to discontinue operations on a contiguous segment thereof, approximately 3.94 miles in length, extending from Milepost B37.50 in the Town of Newburyport to Milepost B41.44 in the Town of Salisbury, all in Essex County, Massachusetts, having been filed herein, together with a copy of an application to the Interstate Commerce Commission (Commission) for a report to this Court recommending its authorization for such abandonment and discontinuance (Appendix "A" of said petition), the original of which has been filed with the Commission under Docket No. AB-32 (Sub No. 17F), all pursuant to the provisions of the Bankruptcy Act, 11 USC 1170 and the Commission's Rules of Practice relevant thereto

3725

contained in Part 1121.60 to 1121.63, inclusive of the Code of Federal Regulations, it is

ORDERED:

1. That the Commission shall report to this Court within sixty (60) days of the date of this Order on its decision on the application of the Trustees for a report to this Court recommending authorization for abandonment of a segment of a line of railroad, the Portland Main Line East Route, so-called, approximately 1.26 miles in length, extending from Milepost B41.44 to Milepost B42.70, all in the Town of Seabrook, Rockingham County, New Hampshire, and recommending authorization for discontinuance of operations on a contiguous segment thereof, approximately 3.94 miles in length, extending from Milepost B37.50 in the Town of Newburyport to Milepost B41.44 in the Town of Salisbury, all in Essex County, Massachusetts, filed with the Commission in AB-32 (Sub No. 17F).

  
Senior District Judge

Dated:

January 4, 1982

DISTRICT COURT OF THE UNITED STATES  
FOR THE DISTRICT OF MASSACHUSETTS

In Proceedings for the Reorganization of a Railroad

.....  
In the Matter of .....  
BOSTON AND MAINE CORPORATION ..... No. 70-250-M  
Debtor .....

ORDER FIXING A TIME FOR THE REPORT  
OF THE INTERSTATE COMMERCE COMMISSION

The petition of the Trustees of the Debtor's property for authority to abandon a segment of a line of railroad, the Portland Main Line East Route, so-called, approximately 1.26 miles in length, extending from Milepost B41.44 to Milepost B42.70, all in the Town of Seabrook, Rockingham County, New Hampshire, and for authority to discontinue operations on a contiguous segment thereof, approximately 3.94 miles in length, extending from Milepost B37.50 in the Town of Newburyport to Milepost B41.44 in the Town of Salisbury, all in Essex County, Massachusetts, having been filed herein, together with a copy of an application to the Interstate Commerce Commission (Commission) for a report to this Court recommending its authorization for such abandonment and discontinuance (Appendix "A" of said petition), the original of which has been filed with the Commission under Docket No. AB-32 (Sub No. 17F), all pursuant to the provisions of the Bankruptcy Act, 11 USC 1170 and the Commission's Rules of Practice relevant thereto

contained in Part 1121.60 to 1121.63, inclusive of the Code of Federal Regulations, it is

ORDERED:

1. That the Commission shall report to this Court within sixty (60) days of the date of this Order on its decision on the application of the Trustees for a report to this Court recommending authorization for abandonment of a segment of a line of railroad, the Portland Main Line East Route, so-called, approximately 1.26 miles in length, extending from Milepost B41.44 to Milepost B42.70, all in the Town of Seabrook, Rockingham County, New Hampshire, and recommending authorization for discontinuance of operations on a contiguous segment thereof, approximately 3.94 miles in length, extending from Milepost B37.50 in the Town of Newburyport to Milepost B41.44 in the Town of Salisbury, all in Essex County, Massachusetts, filed with the Commission in AB-32 (Sub No. 17F).

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Senior District Judge

Dated:

December 23, 1981

Peter Skarmas, Director of Judicial Operations  
U. S. District Court for the District of Massachusetts  
1525 Courthouse and Post Office Building  
Post Office Square  
Boston, Massachusetts 02109

Re: Petition for Order No. 634

Dear Mr. Skarmas:

Enclosed for filing in the above-captioned matter are the original and two (2) copies of the above-captioned petition, together with the original and two (2) copies of a proposed form of order fixing the time for the report of the Interstate Commerce Commission to the Court thereon.

Very truly yours,

Sidney Weinberg

SW/mon  
Enclosures