

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

In the Matter of

BOSTON AND MAINE CORPORATION,

Debtor

I hereby attest and certify on  
5-13-82, 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

BY: RB Lett Deputy

MEMORANDUM AND ORDER

on

Petition of the Debtor's Trustees for Authority to  
Abandon the Hollis Branch in Massachusetts  
and New Hampshire

MURRAY, Senior District Judge

The petition of the Debtor's Trustees for an order authorizing the Trustees, pursuant to Rule 8-512(b) of the Bankruptcy Rules, to abandon the line of railroad known as the "Hollis Branch" came on to be heard on May 4, 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.

The Hollis Branch is a line of railroad approximately 11.7 miles in length, extending from railroad milepost W 28.01 in Ayer, Massachusetts, through the towns of Groton and Pepperell, Massachusetts, to milepost W 39.69 in Hollis, New Hampshire, all within the counties of Middlesex, Massachusetts, and Hillsborough, New Hampshire.

The Trustees considered the question of abandonment at their meeting on October 8, 1981, upon the report and recommendation of Mr. Alan Dustin, president and chief operating officer of

their meeting on October 8, 1981, upon the report and recommendation of Mr. Alan Dustin, president and chief operating officer of the railroad, which was accepted as evidence by the court in the hearing, and voted unanimously to authorize appropriate application for abandonment. The report of the ICC in Finance Docket

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No. AB-32 (Sub. No. 19) recommended that the court authorize the Trustees to abandon the 11.7 mile line of railroad.

The evidence offered at the hearing established that

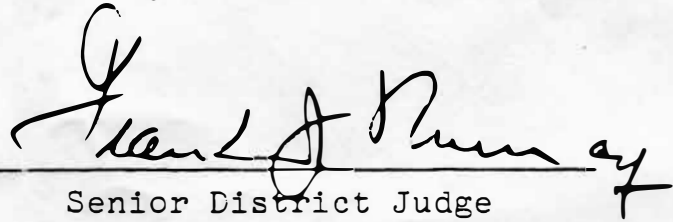
- 1) 714 carloads of freight were handled on the line in 1980, but the line has been embargoed since August 15, 1981 because it is in poor condition and does not meet Federal Railroad Administration Class I operating standards;
- 2) the estimated cost of rehabilitating the line up to Class I standards is \$ 636,833.00;
- 3) in 1980, seven-eight derailments occurred on the line, resulting in temporary interruptions of service;
- 4) the cost of maintenance of the line, including costs incurred through derailments, was \$ 31,219 in 1980;
- 5) arrangements have been made with the two active customers on the line -- Beamis, Inc. and James River Pepperell Paper Co. -- for those customers to receive shipments through transfer facilities at Nashua and Pepperell at costs which would not cause the customers to become non-competitive due to the abandonment and which have preserved for the Debtor the enjoyment of most of the revenue previously derived from shipments over the line;
- 6) the Debtor's staff offered amortization studies showing that it was unlikely that the costs of rehabilitating the line could be recovered;
- 7) the estimated net salvage value of the track is \$ 324,326;
- 8) the estimated value of the land is \$ 62,000.

After considering the evidence, the court is satisfied that abandonment of the 11.7 mile line is in the best interest of the estate of the Debtor, in the public interest, and not in derogation of the ultimate goal of reorganization of the Debtor. Accordingly, it is hereby ORDERED:

1. That the Trustees are authorized to abandon the 11.7 mile line of railroad known as the "Hollis Branch", extending from railroad milepost W 28.01 in Ayer, Massachusetts, through the towns of Groton and Pepperell, Massachusetts, to milepost W 39.69 in Hollis, New Hampshire, all within the counties of Middlesex, Massachusetts, and Hillsborough, New Hampshire.

to milepost W 39.69 in Hollis, New Hampshire, all within the counties of Middlesex, Massachusetts, and Hillsborough, New Hampshire.

2. 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.

  
Senior District Judge

Dated

May 12, 1952

# The Commonwealth of Massachusetts

OFFICE OF  
VICE PRESIDENT - FINANCE

MAY 23 1986

Middlesex, ss.

To Custodian of Records,

B & M Railroad, Iron Horse Park, North Billerica, MA

greeting.

You are hereby required, in the name of The Commonwealth of Massachusetts, to appear before Judge Kelly's Session, Room 11B at the Superior Court

holden at E. Cambridge within and for the county of Middlesex

on the 28th day of May 1986 at

9:30 o'clock in the fore noon, and from day to day thereafter, until the action

hereinafter named is heard by said Court, to give evidence of what you know relating to an action

of then and there to be heard and tried between

Lester W. Berry, Jr., Plaintiff, and

Mobil Oil Corporation, Defendant, and

you are further required to bring with you the documents set forth in the

attached Schedule "A".

*Robert Turner  
to expand with  
records when  
called for this  
Lester W. Berry  
Jr.*

Hereof fail not, as you will answer your default under the pains and penalties in the law in that behalf made and provided.

Dated at Cambridge the 20th day of May

A. D. 1986.

Marvin R. Finn, Notary Public - ~~XXXXXXXXXXXX~~

My Commission Expires: 9/26/91

SCHEDULE "A"

You are required to bring with you the originals and/or copies of:

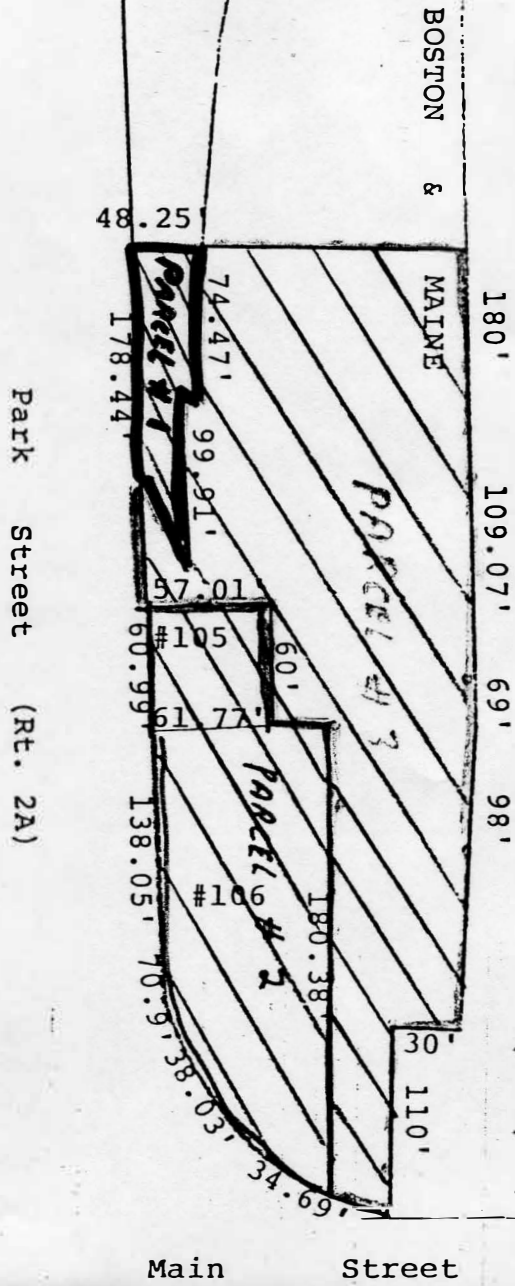
(1) all records, purchase & sale agreements, options, correspondence, corporate records, financial records, books, interoffice memoranda, documents, other memoranda, letters, and other writings in your possession, custody, or control, or in the possession, custody, or control of your agents, attorneys, and/or employees, relating either directly or indirectly to: negotiations by Lester W. Berry, Jr. and/or Ayer Development Corp. to purchase or obtain an option to purchase a parcel of land owned by the B & M Railroad in Ayer, Massachusetts, which is outlined in green and labeled Parcel #3 in the attached plot plan; and

(2) your file dealing with the abandonment of the Hollis Branch that ran from Ayer, Massachusetts to Hollis, New Hampshire.



PLOT PLAN

Groton Street



<u>PARCEL #1</u>	
Mobile Land	5,286+ SF
<u>PARCEL #2</u>	
Berry Land	21,229+ SF
<u>PARCEL #3</u>	
B & M Land	40,600+ SF
<b>TOTAL (assemblage)</b>	<b>67,115+ SF</b>

Approx. Scale  
1" = 100'

Main Street (Rt. 2A)

*Please Hold  
until Sept.*

FULMAN & FULMAN  
ATTORNEYS-AT-LAW  
SEVEN DARTMOUTH STREET  
P. O. BOX 372  
MALDEN, MASSACHUSETTS 02146

MORRIS FULMAN  
ARTHUR S. FULMAN  
MARVIN R. FINN  
RICHARD ASKENASE  
GWEN B. TOPHAM

(617) 321-2000

July 22, 1986

Mr. Roland Theriault  
B & M Railroad  
Iron Horse Park  
North Billerica, MA 01862

Re: Lester W. Berry, Jr.  
Vs: Mobil Oil Corporation

Dear Mr. Theriault:

I am enclosing a copy of a subpoena which was served on R. E. Long on May 23, 1986.

*an*

This case has not yet been reached for trial; however, it has been scheduled for September 16, 1986 at Middlesex Superior Court, East Cambridge. I have been in contact with Jack Nee who is aware of this matter. It is my understanding that you will probably be the person appearing with the records. I will be in touch with you prior to September 16th to advise you of the current status of the case.

Very truly yours,



Marvin R. Finn

MRF:bds  
Enclosure

cc: Jack Nee, Esquire ✓

FVA DEB  
JUL 23 1986  
RECEIVED



**FULMAN & FULMAN**  
ATTORNEYS-AT-LAW  
SEVEN DARTMOUTH STREET  
P. O. BOX 372  
MALDEN, MASSACHUSETTS 02148

MORRIS FULMAN  
ARTHUR S. FULMAN  
MARVIN R. FINN  
RICHARD ASKENASE  
GWEN B. TOPHAM

(617) 321-2000

July 14, 1986

Jack Nee, Esquire  
B & M Railroad  
Iron Horse Park  
North Billerica, MA 01862

Re: Lester W. Berry, Jr.  
Vs: Mobil Oil Corporation

Dear Mr. Nee:

Unfortunately, the above-entitled matter was not reached for trial this past Spring. The case has now been assigned to Judge Steele, and he has scheduled the trial for September 16, 1986.

As you know, you are still under subpoena, and your testimony will probably be needed on September 17th.

Very truly yours,

  
Marvin R. Finn

MRF:bds

*Hollis Br Aland*