

John P. Borgwardt  
General Counsel



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Public Record



May 15, 2002

**VIA UNITED PARCEL SERVICE**

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W., Room 700  
Washington, DC 20006

205410 Re: **Finance Docket No. 34014**  
**Canadian National Railway Company—Trackage Rights Exemption—**  
**Bangor and Aroostook Railroad Company and Van Buren Bridge**  
**Company**

205409 **Finance Docket 34015**  
**Waterloo Railway Company—Acquisition Exemption—Bangor and**  
**Aroostook Railroad Company and Van Buren Bridge Company**

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceedings are an original and ten copies of the Petition of Fraser Papers Inc. for Leave to Intervene and Verified Statement of Austin S. Durant, both dated May 15, 2002.

One extra copy of the Petition and Verified Statement are enclosed. Please date-stamp those items to show receipt of this filing and return them to me in the provided envelope.

If you have any questions regarding this filing, please feel free to contact me. Thank you for your assistance in the matter.

Respectfully submitted,

  
John P. Borgwardt  
General Counsel, Fraser Papers Inc.

cc. Parties on Certificate of Service

Fraser Papers Inc.  
70 Seaview Avenue  
P.O. Box 10055  
Stamford, CT  
USA 06904

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Fax 203 705-2362  
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BEFORE THE  
SURFACE TRANSPORTATION BOARD

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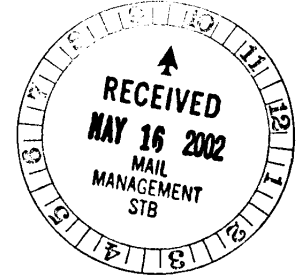
FINANCE DOCKET NO. 34014

CANADIAN NATIONAL RAILWAY COMPANY  
-- TRACKAGE RIGHTS EXEMPTION --  
BANGOR AND AROOSTOOK RAILROAD COMPANY  
AND VAN BUREN BRIDGE COMPANY

FINANCE DOCKET NO. 34015

WATERLOO RAILWAY COMPANY  
-- ACQUISITION EXEMPTION --  
BANGOR AND AROOSTOOK RAILROAD COMPANY  
AND VAN BUREN BRIDGE COMPANY

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**PETITION OF FRASER PAPERS INC. FOR LEAVE TO INTERVENE**

John P. Borgwardt  
Fraser Papers Inc.  
70 Seaview Avenue  
Stamford, Connecticut 06902  
(203) 705-2366

**ATTORNEY FOR FRASER PAPERS INC.**

Dated: May 15, 2002

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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FINANCE DOCKET NO. 34014

CANADIAN NATIONAL RAILWAY COMPANY  
-- TRACKAGE RIGHTS EXEMPTION --  
BANGOR AND AROOSTOOK RAILROAD COMPANY  
AND VAN BUREN BRIDGE COMPANY

FINANCE DOCKET NO. 34015

WATERLOO RAILWAY COMPANY  
-- ACQUISITION EXEMPTION --  
BANGOR AND AROOSTOOK RAILROAD COMPANY  
AND VAN BUREN BRIDGE COMPANY

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**PETITION OF FRASER PAPERS INC. FOR LEAVE TO INTERVENE**

Pursuant to 49 C.F.R. § 1112.4, Fraser Papers Inc. ("Fraser"), by its counsel, hereby petitions the Board for leave to intervene and to become a party in this proceeding. Specifically, Fraser seeks leave to submit the attached Verified Statement of Austin S. Durant, Vice President Materials Management for Fraser in response to the Petition to Reopen and Revoke Exemptions, dated April 24, 2002 filed by the Trustee of the Bangor and Aroostook Railroad Company ("BAR").

The relief sought by the Trustee directly affects Fraser. The exemptions which the Trustee seeks to revoke relate to trackage rights and easement rights held by Canadian National Railway Company ("CN") over a line of the BAR for the sole purpose of serving Fraser's paper mill at Madawaska, Maine. Accordingly, Fraser has an inherent interest in the

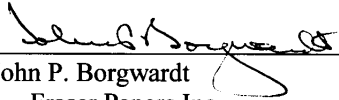
exemptions at issue. As discussed in Mr. Durant's verified statement, Fraser strongly opposes the relief sought by the Trustee.

Fraser's intervention in this proceeding and the Board's acceptance of the attached verified statement will not unduly broaden the issues already presented by the Trustee's petition nor unduly delay this proceeding.

Notwithstanding Fraser's substantial interest in the issues raised by the Trustee's petition, the Trustee did not serve a copy of his petition on Fraser. Fraser has endeavored to file this Petition for Leave to Intervene with the Board as soon as it could.

WHEREFORE, Fraser Papers, Inc. respectfully requests that the Board grant Fraser's Petition for Leave to Intervene and accept the attached Verified Statement of Austin S. Durant into the record.

Respectfully submitted,

  
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John P. Borgwardt  
Fraser Papers Inc.  
70 Seaview Avenue  
Stamford, Connecticut 06902  
(203) 705-

**ATTORNEY FOR FRASER PAPERS INC.**

Dated: May15, 2002

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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FINANCE DOCKET NO. 34014

CANADIAN NATIONAL RAILWAY COMPANY  
-- TRACKAGE RIGHTS EXEMPTION --  
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WATERLOO RAILWAY COMPANY  
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BANGOR AND AROOSTOOK RAILROAD COMPANY  
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**VERIFIED STATEMENT  
OF  
AUSTIN S. DURANT**

My name is Austin S. Durant. I am Vice President Materials Management for Fraser Papers Inc. ("Fraser"). I am responsible for corporate purchasing, information systems and transportation for all of Fraser's facilities. I have served in my present position since 1998. I have been involved in the purchasing of transportation services for Fraser throughout my entire 15-year career with the company.

It is Fraser's understanding that the bankruptcy trustee for the Bangor and Aroostook Railroad ("BAR") has filed a petition with the STB which could affect the ability of the Canadian National Railway ("CN") to serve Fraser's paper mill at Madawaska, Maine. Although the Trustee did not serve a copy of his petition on Fraser, it is our understanding that

the Trustee seeks to have the Board revoke rights held by CN to operate over BAR's line to our Madawaska mill.

Fraser strongly opposes the Trustee's petition. Revocation of CN's rights would have a substantial adverse effect on Fraser, essentially removing a critical measure of transportation security for our Madawaska mill and an important competitive option for Fraser.

Fraser is a large producer of specialized paper products in North America with pulp and/or paper manufacturing facilities in two states and two Canadian provinces. One of Fraser's largest facilities is a paper mill at Madawaska, Maine in the far northeast corner of Maine. The Madawaska mill produces approximately 1200 tons per day of lightweight fine, specialty grade and coated and uncoated groundwood papers. The mill is located on a line of the BAR at the extreme northern end of the BAR system. The mill is approximately 25 rail miles from the CN's main line at St. Leonard, New Brunswick. Until last year when CN acquired the right to directly serve the Madawaska mill, only BAR could serve the mill.

Consistent and reliable rail service to the Madawaska mill is extremely important to Fraser. The mill is highly dependent on rail service both for inbound supplies, such as clay from Georgia and specialty chemicals from the Midwest, and for outbound transportation of paper products through the United States. The mill has limited ability to store raw materials and outbound product on-site. The mill receives supplies and ships product by truck, but logistics, physical constraints and economics, prevent Fraser from sole reliance on truck transportation. Without consistent and reliable rail service, the mill could not operate for long.

The impact would not be limited to the Madawaska mill. Fraser operates a sister mill at Edmundston, New Brunswick across the St. John's River from the Madawaska mill. The Edmundston mill manufactures woodpulp and related products exclusively for the Madawaska

mill. The two mills are thus highly interdependent. Although the Edmundston mill is located on CN's main line, if the Madawaska mill were to shut down, the Edmundston mill would have to shut down as well. More than 1600 employees and \$8.5 million in Fraser revenue per week would be affected.

When it became apparent to Fraser in late 1999 that BAR was having serious financial difficulties, we became extremely concerned. We did what we could to support and assist BAR, such as immediate payment of their invoices to assist cash flow. We also contacted CN, the nearest other railroad, to determine what could be done to assure continued rail service to the mill. In early 2001, CN advised us that CN had reached an agreement with Iron Road, the parent of BAR, that would allow direct CN routing on traffic to and from the Madawaska mill. I subsequently learned that in exchange for a substantial cash payment from CN, BAR had agreed to a haul CN cars, and CN had acquired trackage rights and an easement over BAR's line, to our Madawaska mill. It is those rights that I understand the Trustee now seeks to have revoked.

Continuation of CN's rights to the Madawaska mill is extremely important to Fraser. CN's ability to directly serve the mill alleviates Fraser's concerns over any potential loss of rail service to the plant and eliminates the possibility of – and the inherent delay in – having to seek emergency authority from the STB for CN to serve the plant should a BAR service failure occur. CN's rights also serve to protect Fraser's access over the long term to CN's long-haul routes and service. This is especially important in the event of a sale of the BAR to a competitor of CN or to a third party who might take action to economically close the St. Leonard gateway with CN in an effort to force the traffic to move via non-CN routes.

Continuation of CN's rights also benefits Fraser from the competition that such rights provide. With Fraser having access to two railroads, and access to both CN and non-CN

routes, each railroad has a strong incentive to provide us with competitive rates and service on our traffic. Much like a shipper with a build-out option, even without direct service from CN to the mill, the availability of that service alone provides Fraser with competitive leverage.

Revoking CN's rights, as the BAR has apparently requested, would send Fraser back to where we were in 2000, wholly dependent on one railroad and vulnerable to potential service deficiencies or even complete loss of service. Moreover, in the event of a sale of BAR, Fraser would have no assurance that the buyer would not take action to foreclose or inhibit Fraser's access to CN.

What we want is what we have – access to two railroads and the security and competitive benefits that that provides. It would truly represent an astonishing and chilling change of course in the area of competitive access for shippers if the Board were to undo competitive access that had been achieved by private agreement by allowing a railroad to oust its competitor in an effort to increase the sale price of its property.

I urge the Board to deny the BAR's petition.

# **VERIFICATION**

I, Austin S. Durant, verify under penalty of perjury under the laws of the United States that the foregoing statement is true and correct. Further, I certify that I am qualified and authorized to file this Verified Statement.

Executed on May15, 2002.

  
Austin S. Durant

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the foregoing **Petition of Fraser Papers Inc. For Leave to Intervene** and the attached **Verified Statement of Austin S. Durant** upon the following persons by overnight delivery:

Charles H. White, Jr.  
Attorney at Law  
1200 Britania Lane  
Annapolis, MD 21403

Kevin M. Sheys  
Kirkpatrick & Lockhart LLP  
1800 Massachusetts Avenue, N.W.  
Second Floor  
Washington, DC 20036

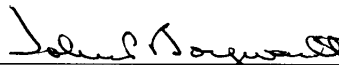
and upon the following persons by first -class mail, postage prepaid:

Cynthia A. Bergmann  
Canadian National/Illinois Central  
455 North Cityfront Plaza Drive  
Chicago, Illinois 60601-5317

William C. Sippel  
Fletcher & Sippel LLC  
Two Prudential Plaza, Suite 3125  
180 North Stetson Avenue  
Chicago, Illinois 60601-6721

Michael L. Rosenthal  
Covington & Burling  
1201 Pennsylvania Avenue, N.W.  
Washington, DC 20004-2401

Dated at Stamford, Connecticut this 15th day of May, 2002.

  
\_\_\_\_\_  
John P. Borgwardt