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Kirkpatrick & Lockhart LLP

1800 Massachusetts Avenue, NW
Suite 200
Washington, DC 20036
202.778.9000
www.kl.com

FILED

AUG 9 2002

SURFACE

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Tracie D. Spear
202.778.9390
Fax: 202.778.9100
tspear@kl.com



August 9, 2002

VIA HAND DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Re: **Finance Docket No. AB-279 (Sub-No. 3)**
Canadian National Railway Company -- Adverse
Discontinuance -- Lines Of Bangor and Aroostook Railroad
Company, and Van Buren Bridge Company In Aroostook
County, Maine

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and ten copies of **Petition For Waiver of Trustee of Bangor & Aroostook Railroad Company** dated August 9, 2002. A check in the amount of \$1300.00, representing the appropriate fee for the Petition, is enclosed. Trustee represents the estate of a bankrupt railroad and therefore by this letter we are requesting a waiver and refund of the enclosed filing fee. In addition, please note that we are requesting expedited consideration for the Petition for the reasons set forth therein.

Should any questions arise regarding this filing, please feel free to contact me.
Thank you for your assistance on this matter.

ENTERED
Office of Proceedings

AUG 9 2002

Part of
Public Record

Respectfully submitted,

Tracie D. Spear

Attorney for Trustee of Bangor & Aroostook
Railroad Company

Enclosures

BEFORE THE
SURFACE TRANSPORTATION BOARD



DOCKET NO. AB-279 (Sub-No. 3)

CANADIAN NATIONAL RAILWAY COMPANY
--ADVERSE DISCONTINUANCE --
LINES OF BANGOR AND AROOSTOOK RAILROAD COMPANY, and
VAN BUREN BRIDGE COMPANY
IN AROOSTOOK COUNTY, MAINE

FILE

AUG 9 2002

SURFACE

EXPEDITED CONSIDERATION REQUESTED

**PETITION FOR WAIVER OF
TRUSTEE OF BANGOR & AROOSTOOK RAILROAD COMPANY**

Charles H. White, Jr.
Attorney at Law
1200 Britania Lane
Annapolis, MD 21403
(410) 268-8575

Kevin M. Sheys
Tracie D. Spear
Kirkpatrick & Lockhart LLP
1800 Massachusetts Avenue, N.W. – 2nd Floor
Washington, DC 20036
(202) 778-9000

**ATTORNEYS FOR TRUSTEE OF BANGOR &
AROOSTOOK RAILROAD COMPANY**

Dated: August 9, 2002

**ENTERED
Office of Proceedings**

AUG 9 2002

**Part of
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BEFORE THE
SURFACE TRANSPORTATION BOARD

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CANADIAN NATIONAL RAILWAY COMPANY
-- ADVERSE DISCONTINUANCE --
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EXPEDITED CONSIDERATION REQUESTED

**PETITION FOR WAIVER OF
TRUSTEE OF BANGOR & AROOSTOOK RAILROAD COMPANY**

A. BACKGROUND

Pursuant to 49 C.F.R § 1152.24(e)(5), James E. Howard, Esq., Trustee of the Bangor and Aroostook Railroad Company, Debtor ("Trustee") seeks waiver of certain requirements of the Surface Transportation Board's ("STB" or "Board") abandonment regulations for an adverse discontinuance application that Trustee intends to file in this proceeding. Trustee also seeks certain minor related exemptions, as described below. These requirements are inapplicable or irrelevant in an adverse discontinuance context, and the Board has consistently granted waivers from such provisions in adverse abandonment and discontinuance cases. Trustee intends to seek adverse discontinuance of trackage rights held by Canadian National Railway Company ("CN") and of a freight easement held by Waterloo Railway Company ("WRC"). Trustee intends to file its adverse discontinuance application on or about September 16, 2002.

Currently, the Bangor and Aroostook Railroad Company ("BAR") provides rail freight service to the Fraser Paper Company ("Fraser") plant at Madawaska, Maine pursuant to a haulage arrangement with CN. BAR moves cars between Fraser's Madawaska plant and an interchange with CN at St. Leonard, New Brunswick. CN provides long haul service beyond the interchange. BAR owns a portion of the track used to provide this service – between approximately MP 0.0 at Madawaska, Maine and approximately MP 22.72 at Van Buren (Canadian Junction), Maine. BAR's wholly-owned subsidiary, the Van Buren Bridge Company ("VBBC") owns the track between approximately MP 0.0 at Van Buren, Maine and approximately MP 0.31 at the United States-Canadian Border (the referenced BAR-owned and VBBC-owned lines are collectively referred to as the "Subject Line").

CN acquired trackage rights over the Subject Line pursuant to a Notice of Exemption served March 21, 2001. Canadian National Railway Company – Trackage Rights Exemption – Bangor and Aroostook Railroad Company and Van Buren Bridge Company (STB served March 21, 2001).

WRC, a subsidiary of CN, acquired a non-exclusive freight operating easement over the Subject Line pursuant to a Notice of Exemption served March 21, 2001. Waterloo Railway Company – Acquisition Exemption – Bangor and Aroostook Railroad Company and Van Buren Bridge Company (STB served March 21, 2001). WRC acquired the easement to secure the trackage rights that CN obtained over the Subject Line.

On August 15, 2001, an involuntary Chapter 11 reorganization proceeding was filed against BAR and on December 4, 2001, James B. Haines, Jr., Chief Judge of the

United States Bankruptcy Court, District of Maine, granted an order of relief in the proceeding. Case No. 01-11565, U.S. Bky. Ct., D. Maine.

B. WAIVER REQUESTS

As the Board and its predecessor have consistently found, much of the information that the Board's regulations otherwise required in an abandonment or discontinuance application is largely inapplicable or irrelevant to the issues in an adverse discontinuance proceeding. Waiver of these inapplicable and unneeded portions of the Board's abandonment regulations is routine in adverse abandonment or discontinuance cases. Chelsea Property Owners -- Abandonment -- Portion of Consolidated Rail Corporation's West 30th Street Secondary Track in New York, NY, Docket No. AB-167 (Sub-No. 1094) (ICC served July 19, 1989); Grand Trunk Western Railroad Incorporated -- Adverse Discontinuance of Trackage Rights Application -- A Line of Norfolk and Western Railway Company in Cincinnati, Hamilton County, OH, Docket No. AB-31 (Sub-No. 30) (STB served Feb. 12, 1998) ("Grand Trunk Western Railroad Incorporated"); and City of Rochelle, Illinois -- Adverse Discontinuance- Rochelle Railroad Company, STB Docket No. AB-549 (STB served June 5, 1998) ("City of Rochelle").

Trustee requests waiver of the following informational requirements of 49 C.F.R. § 1152, Subpart C:

SECTION	REQUIREMENT
1152.20(a)(3)	Posting requirements
1152.22(a)(4)	Detailed map ¹

¹ Trustee seeks waiver of the detailed map requirements in Section 1152.22(a)(4). Trustee's adverse discontinuance application will include a map showing relevant information.

1152.22(a)(5), 1152.10 – 1152.14	System diagram map
1152.22(b)	Condition of properties
1152.22(c)	Service provided
1152.22(d)	Revenue and cost data
1152.22(e)	Rural and community impact

Trustee seeks waiver of the posting requirements of 49 C.F.R. § 1152.20(a)(3) (and the corresponding requirements of § 1152.20(b)(2)).² See, e.g., City of Rochelle, at 4. Trustee intends to comply with all of the other notice procedures of 49 C.F.R. § 1152.20. Such notice procedures will provide interested parties with sufficient information regarding the status of the Subject Line.

Trustee is unable to compel the publication by CN of a system diagram map ("SDM") that shows the Subject Line in category 1. Trustee accordingly seeks waiver of the SDM requirements of 49 C.F.R. § 1152, Subpart B.³ See, e.g., Grand Trunk Western Railroad Incorporated, at 2 (holding that the filing of a SDM, which is imposed by statute, is not appropriate in the context of an adverse abandonment).

Where as here, the adverse discontinuance arises in the context of continued rail service, "there is no point in requiring the submission of traffic data, data on revenues and costs, and information about transportation alternatives." Fore River Railroad Corporation – Discontinuance of Service Exemption – Norfolk County, MA, Docket No. AB-539 (ICC served Feb. 13, 1992) at 2.

² To the extent deemed necessary for the forthcoming adverse discontinuance application, Trustee also requests an exemption, pursuant to 49 U.S.C. § 10502, from the posting requirements of 49 U.S.C. § 10903(a)(3)(B).

³ To the extent deemed necessary for the forthcoming adverse discontinuance application, Trustee also requests exemption, pursuant to 49 U.S.C. § 10502, from the SDM requirements of 49 U.S.C. § 10903(c)(2).

Trustee also seeks exemption from the offer of financial assistance requirements of 49 U.S.C. § 10904 and waiver of the related regulations, 49 C.F.R. § 1152.27. See, e.g., The Kansas City Southern Railway Company – Adverse Discontinuance Application – A Line of Arkansas & Missouri Railroad Company, Docket No. AB-103 (Sub-No. 14) (STB served Nov. 24, 1998) ("Kansas City Southern Railway Company") at 2. Trustee understands that, as applicant in an adverse discontinuance proceeding, it bears the burden of proof to submit sufficient relevant information to allow the Board to reach a decision on the merits and grant the requested relief.

Because rail service on Subject Line will continue to be provided by BAR (or a successor), this adverse discontinuance proceeding is exempt from the environmental and historic reporting requirements of 49 C.F.R. § 1105 pursuant to 49 C.F.R. §§ 1105.6(c)(6) and 1105.8(b)(3). Tacoma Eastern Railway Company – Adverse Discontinuance of Operations Application – A Line of City of Tacoma, In Pierce, Thurston and Lewis Counties, WA, Docket No. AB-548 (STB served Mar. 3, 1999) at 8; see also Kansas City Southern Railway Company, at 2, n.3. Trustee requests any further exemption or waiver that the Board may find necessary to confirm the inapplicability of environmental and historic reporting requirement to this proceeding.

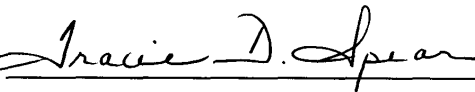
C. REQUEST FOR EXPEDITED CONSIDERATION

Trustee intends to file its adverse discontinuance application on or soon after September 16, 2002. The BAR estate will benefit from prompt consideration of the discontinuance application. The Board's regulations and decisions indicate a preference that waivers be requested and obtained before an adverse application is filed. 49 C.F.R. § 1152.24(e)(5); Grand Trunk Western Railroad Incorporated, at 2.

Trustee respectfully requests expedited consideration of this Waiver Petition and a Board decision issued and effective on or before September 9, 2002.

WHEREFORE, James E. Howard, Esq., Trustee of the Bangor and Aroostook Railroad Company, respectfully requests that the Board grant the requested waivers and exemptions set forth herein.

Respectfully submitted,

By 

Charles H. White, Jr.
Attorney at Law
1200 Britania Lane
Annapolis, MD 21403
(410) 268-8575

Kevin M. Sheys
Tracie D. Spear
Kirkpatrick & Lockhart LLP
1800 Massachusetts Avenue, N.W. – 2nd Floor
Washington, DC 20036
(202) 778-9000

**ATTORNEYS FOR TRUSTEE OF BANGOR &
AROOSTOOK RAILROAD COMPANY**

Dated: August 9, 2002

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of August, 2002, a copy of the foregoing
Petition for Waiver of Trustee of Bangor & Aroostook Railroad Company was
served by first class mail, postage prepaid, upon:

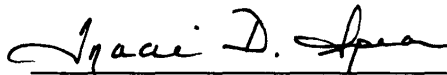
John P. Borgwardt
Austin S. Durant
Fraser Papers, Inc.
70 Seaview Avenue
Stamford, CT 06902

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

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

Michael L. Rosenthal
J. Michael Hemmer
Covington & Burling
1201 Pennsylvania Avenue, NW
Washington, DC 20004-2401

William A. Mullins
David C. Reeves
Troutman Sanders LLP
401 Ninth Street, NW, Suite 1000
Washington, DC 20004-2134



Tracie D. Spear