

1
**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD NEW HAMPSHIRE 03301-6397

KELLY A. AYOTTE
ATTORNEY GENERAL



ORVILLE B. "BUD" FITCH II
DEPUTY ATTORNEY GENERAL

August 27, 2007

220158



The Honorable Vernon A. Williams, Secretary
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Re STB Docket No. AB-32 Sub No 100
Boston and Maine Corporation and Springfield Terminal Railway Company –
Adverse Discontinuance of Operating Authority – New England Southern
Railroad Company Petition for Waiver

Dear Secretary Williams

The State of New Hampshire, Department of Transportation requests that it be made a participant of record in the above-referenced proceeding. Undersigned counsel will be representing the State in this proceeding. Enclosed please find an original and ten (10) copies of an Objection to Petition for Waiver filed on behalf of the State of New Hampshire Department of Transportation.

I have forwarded copies of this Objection to counsel for Boston and Maine Corporation and Springfield Terminal Railway Company as well as counsel for New England Southern Railroad Company.

Thank you for your consideration.

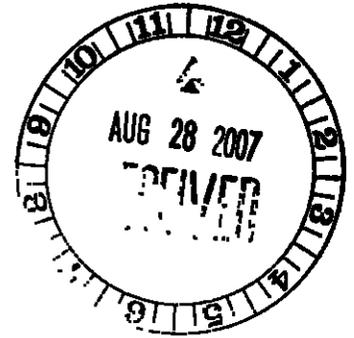
Very truly yours,

Stephen G. LaBonte
Assistant Attorney General
Transportation & Construction Bureau
(603) 271-3675

ENTERED
Office of Proceedings
AUG 28 2007
Part of
Public Record

SGL/sed
Enclosure
cc Patricia A. Morris, Esquire
Keith G. O'Brien, Esquire
214356.doc

220158



BEFORE THE
SURFACE TRANSPORTATION BOARD

ENTERED
Office of Proceedings

AUG 28 2007

Part of
Public Record

DOCKET NO AB-32 SUB NO 100

BOSTON AND MAINE CORPORATION & SPRINGFIELD TERMINAL RAILWAY
COMPANY – ADVERSE DISCONTINUANCE OF OPERATING AUTHORITY – NEW
ENGLAND SOUTHERN RAILROAD CO, INC - FOR NH MAIN LINE 80 68 TO 56 0,
76 72 TO MILE POST 1 77, AND ENG STA 1839+42 TO ENG STA 41 98

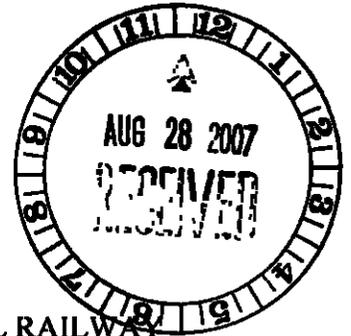
OBJECTION TO PETITION FOR WAIVER

STATE OF NEW HAMPSHIRE
DEPARTMENT OF TRANSPORTATION
By its attorneys,
Kelly A Ayotte, Attorney General

Stephen G LaBonte
Assistant Attorney General
Transportation and Construction Bureau
33 Capitol Street
Concord, New Hampshire 03301-6397
(603) 271-3675
(603) 271-2110 (fax)

Dated August 27, 2007

BEFORE THE
SURFACE TRANSPORTATION BOARD



DOCKET NO AB-32 SUB NO 100

BOSTON AND MAINE CORPORATION & SPRINGFIELD TERMINAL RAILWAY
COMPANY – ADVERSE DISCONTINUANCE OF OPERATING AUTHORITY - NEW
ENGLAND SOUTHERN RAILROAD CO , INC – FOR NH MAIN LINE 80 68 TO 56 0,
76 72 TO MILE POST 1 77, AND ENG STA 1839+42 TO ENG STA 41 98

OBJECTION TO PETITION FOR WAIVER

NOW COMES the State of New Hampshire Department of Transportation (“NHDOT”),
by and through its attorneys, the Office of the Attorney General, and objects to Boston and
Maine Corporation and the Springfield Terminal Railway Company’s (collectively “Pan Am”)
Petition for Waiver by stating as follows

**I. The New Hampshire Department of Transportation Objects to the
Proposed Waiver of 49 CFR 1152.22 (c), (d), (e), Service Provided,
Revenue and Cost Data, Rural and Community Impact**

The NHDOT objects to the proposed waiver of the requirement for information on
service provided, revenue and cost data, and rural and community impact required by 49 CFR
1152 22, (c), (d), and (e) The adverse discontinuance of the New Hampshire Main Line is likely
to have a significant impact on the NHDOT-owned White Mountain Branch, and the information
requirements are directly relevant to an analysis of these impacts

The proposed discontinuance of service on the Pan Am railroad line would have a
significant effect on the continued operation of freight service on the NHDOT-owned White
Mountain Branch (Concord-Lincoln line) The New England Southern Railroad Company
(“NES”) has operated on this line under agreement with the state since 1982 At present there is
one freight customer on the line, Innovative Paper Technologies in Tilton, New Hampshire This
business, although a small volume customer, requires rail service for its manufacturing process

The NES has been able to serve the freight customer on the NHDOT line because of the revenues it realizes through its lease on the Pan Am New Hampshire Main Line. Without revenues realized from the lease operations or at a minimum from serving customers in Concord, the NES would not be able to continue service to Innovative Paper Technologies.

The NES lease also enables it to maintain the NHDOT line as a rail connection for the Plymouth & Lincoln Railroad, located in Lincoln, New Hampshire, 73 miles from Concord. In addition to its tourist excursion business, the Plymouth & Lincoln maintains an active business restoring and rebuilding railroad equipment for customers throughout the region. It requires a rail connection to move equipment to and from its customers, and this connection is partly maintained by NES with revenues it receives through its Pan Am lease.

II. The New Hampshire Department of Transportation Partially Objects to the Proposed Waiver of 49 CFR 1152.22 (a) 5, 1152.10-1152.14 System Diagram Map

The NHDOT does not disagree with Pan Am's assertion regarding the necessity of filing a system diagram map, since the proposed filing relates to a change of operators. However, the Board should require a clarification of ownership and control of the railroad lines in question, since the petition claims control of a segment of railroad owned by NHDOT.

The NHDOT owns the railroad line from Concord to Lincoln, New Hampshire. The NHDOT purchased the segment of this line between the switch at the Pan Am Railways New Hampshire Main Line and the existing State ownership from the Boston and Maine Corporation in 1998. Contrary to the statement in the Petition, this segment is owned and controlled by the NHDOT. The State-owned line is operated under a freight operating agreement by the NES, and a portion of the line is under a tourist excursion operating agreement by the Plymouth & Lincoln Railroad.

WHEREFORE, NHDOT respectfully requests that the STB,

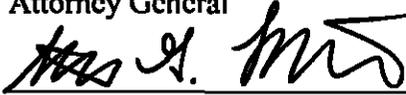
A Deny Pan Am's Petition for Waiver with regard to 49 CFR 1152 22(c), (d), (e),
Service Provided, Revenue and Cost Data, Rural and Community Impact, and

B Require Pan Am to better clarify its ownership and control of the railroad lines in
question prior to granting this waiver

Respectfully submitted,

The State of New Hampshire
By its attorneys,

Kelly A Ayotte
Attorney General



Stephen G LaBonte
Assistant Attorney General
Transportation and Construction Bureau
33 Capitol Street
Concord, New Hampshire 03301-6397
(603) 271-3675

Date August 27, 2007

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 27th day of August, 2007, a copy of the
Objection to Petition for Waiver in the above-mentioned proceeding was forwarded by first class
mail, postage prepaid, to

Boston and Maine Corporation
Springfield Terminal Railway Company
Patricia A Morris, Esquire
Corporate Counsel
14 Aviation Avenue
Portsmouth, New Hampshire 03801

New England Southern Railroad Company
Keith G O'Brien, Esquire
Baker & Miller, PLLC
2401 Pennsylvania Avenue, NW, Suite 300
Washington, DC 20037



Stephen G LaBonte