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Office of Proceedings
October 25, 2021
Part of
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October 25, 2021

CSXT/PAR-38

VIA E-FILING

Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
Office of Proceedings
395 E Street, SW
Washington, DC 20423

Re: **STB Docket No. FD 36472, CSX Corporation and CSX Transportation, Inc., et al.—Control and Merger—Pan Am Systems, Inc., Pan Am Railways, Inc., Boston and Maine Corporation, Maine Central Railroad Company, Northern Railroad, Pan Am Southern LLC, Portland Terminal Company, Springfield Terminal Railway Company, Stony Brook Railroad Company, and Vermont & Massachusetts Railroad Company**

Dear Ms. Brown:

On October 18, 2021, Applicants¹ filed in the above-referenced matter Applicants' Response to Comments and Requests for Conditions and Rebuttal in Support of Application (the "Response Comments"). Attached as Exhibit 3 to the Response Comments was the Daly Reply V.S. In response to comments by MassDOT and MBTA, Mr. Daly explained that CSXT has committed that CSXT and PAS will continue to honor any agreements or commitments made by the PAR Railroads or PAS to MassDOT and MBTA. Mr. Daly attached several such agreements, including the 2011 Trackage Rights Agreement (the "2011 PAR TRA") between MBTA, Boston & Maine, and Springfield Terminal.

We recently discovered that Attachment 3 to the Daly Reply V.S. inadvertently contained an incomplete version of the 2011 PAR TRA. *See* CSXT/PAR-37-220 - CSXT/PAR-37-242. Enclosed is a full version of the 2011 PAR TRA, along with a First Amendment to the 2011 PAR TRA. We are also enclosing a 2011 Trackage Rights Agreement between MBTA and Pan

¹ The acronyms and defined terms used in this letter are the same as those used in the July 1, 2021 Revised Application.

Cynthia T. Brown
October 25, 2021
Page 2

Am Southern LLC ("2011 PAS TRA"), along with a First Amendment to the 2011 PAS TRA.
The 2011 PAS TRA is related to the 2011 PAR TRA.

Please let us know if you have any questions.

Respectfully submitted,

/s/ Anthony J. LaRocca

Anthony J. LaRocca
Peter W. Denton
Sally Mordi
*Attorneys for CSX Corporation and
CSX Transportation, Inc.*

Enclosure

cc: Louis E. Gitomer
All parties of record

2011 PAR TRACKAGE RIGHTS AGREEMENT



Bk: 56429 Pg: 120 Doc: AGR
Page: 1 of 128 02/07/2011 02:30 PM

EXECUTION VERSION

2011 TRACKAGE RIGHTS AGREEMENT

BY AND AMONG

THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY ✓

AND

BOSTON AND MAINE CORPORATION ✓

AND

SPRINGFIELD TERMINAL RAILWAY COMPANY ✓

INTRODUCTION AND RECITALS

The Massachusetts Bay Transportation Authority (the "MBTA"), and the Boston and Maine Corporation, a Delaware corporation ("B&M") and Springfield Terminal Railway Company, a Vermont corporation ("STRC") (B&M and STRC, collectively, "PAR") enter into this 2011 Trackage Rights Agreement (the "Agreement") as of January 10, 2011 (the "Effective Date") in order to memorialize their mutual understanding with regard to certain rights to conduct passenger services on certain property currently owned and operated by B&M and STRC, and for the purpose of defining their respective rights and obligations with respect to the same.

WHEREAS, the MBTA is the owner of certain railroad lines (the "1976 Properties") pursuant to an Indenture dated December 24, 1976 from Robert W. Meserve and Benjamin H. Lacy, as trustees of the property of the Boston and Maine Corporation (the "1976 Deed");

WHEREAS, PAR is the holder of a retained freight easement described in the 1976 Deed pursuant to which PAR currently conducts its freight rail operations over portions of the 1976 Properties;

WHEREAS, B&M owns the fee interest in certain railroad lines described herein as the PAR Rail Properties which intersect the 1976 Properties and connect some portions of the 1976 Properties with other rail lines owned by the MBTA, and STRC is the tenant under a lease for the PAR Rail Properties;

WHEREAS, PAR desires to grant certain trackage rights and an option to purchase with respect to the PAR Rail Properties to the MBTA, and the MBTA wishes to acquire such trackage rights and option to purchase upon the terms and conditions set forth in this Agreement;

NOW, THEREFORE, the Parties agree as follows:

Deed 1311/Pg 13117-113

Peter Lacy, Jr.
General Counsel

SECTION 1 DEFINITIONS.

“Appropriate Statutory and Regulatory Authority” means 49 U.S.C. §10903, *et seq.* and 49 C.F.R., Part 1152 and the STB’s interpretations thereof.

“Binding Price Notice” shall have the meaning set forth in Section 6.2(b)(1).

“Capacity Study” shall have the meaning set forth in Section 4.1.

“Commuter Rail Commencement Date” shall have the meaning set forth in Section 4.1.

“Commuter Rail Election” means the delivery of a Commuter Rail Election Notice by the MBTA to PAR and the commencement of MBTA Commuter Rail Services on such portion of the rail properties described in such Commuter Rail Election Notice.

“Commuter Rail Election Notice” shall have the meaning set forth in Section 4.1.

“Controlling Party” has the meaning set forth in Section 8.1(a).

“Direct Costs” means direct expenses incurred by the Controlling Party in performing any Force Account Work or by a Party in performing Enhanced Maintenance Services, without limitation, the cost of associated employee benefits, materials and contracted services, as described on Exhibit C, Direct Costs.

“Effective Date” shall have the meaning set forth in the recitals of this Agreement.

“Effective Interest Rate” means the lesser of (i) twelve percent (12%) per annum or (ii) the fluctuating rate per annum equal to the Prime Rate plus two percent (2.0%). “Prime Rate” means the Prime Rate as from time to time published in the Money Rates Section of *The Wall Street Journal*. The rate described in clause (ii) of this definition shall change on the date of each change in the Prime Rate, and if such change results in a change to the Effective Interest Rate applicable to any amount due under this agreement, the new Effective Interest Rate shall be applied as of such date.

“Enhanced Maintenance Services” shall mean any maintenance, inspections, equipment, renewal or the like that is required to meet the Enhanced Maintenance Standard, as well as maintenance and renewal services required for any Infrastructure Improvements and any Supplemental Infrastructure Improvements.

“Enhanced Maintenance Standard” shall mean, (1) in the case of the Level 1 and Level 2 Rail Properties, the increased level and type of maintenance, inspection, equipment and renewal that is required to provide passenger service on a previously freight-only segment of line, whether or not such passenger service results in a change to the FRA Classification of the line segment as shown on **Exhibit D** attached hereto, or (2) in the case of the MBTA Rail Properties, the increased level and type of maintenance, inspection, equipment and renewal required for PAR Freight Rail Service above the standards set by the FRA Track Safety Standards for the

speeds at which the MBTA Commuter Rail Services trains are operated, plus, in either case, any maintenance and renewal services required for any Infrastructure Improvements.

“Exercise Notice” shall have the meaning set forth in Section 6.2(a).

“Force Account Work” means work that PAR is obligated to perform pursuant to this Agreement, which the MBTA may direct PAR to complete pursuant to Section 8 herein.

“FRA” means the Federal Railroad Administration.

“Hazardous Materials” means and includes asbestos, flammable materials, explosives, radioactive or nuclear substances, polychlorinated biphenyls, other carcinogens, oil and other petroleum products, radon gas, urea formaldehyde, chemicals, gases, solvents, pollutants or contaminants that could be a detriment or pose a danger to the environment or to the health or safety of any Person, and any other hazardous or toxic materials, wastes and substances which are defined, determined or identified as such in any and all applicable federal, state and local laws, by-laws, rules, regulations, codes and ordinances, or any judicial or administrative interpretations thereof, and the requirements of any governmental agency or authority having jurisdiction with respect thereto, applicable to the regulation or protection of the environment, the health and safety of Persons and property and all other environmental matters and shall include, without limitation, all orders, decrees, judgments and rulings imposed through any public or private enforcement proceedings by an entity with appropriate jurisdiction and authority relating to Hazardous Materials or to the existence, use, discharge, release, containment, transportation, generation, storage, management or disposal thereof, or otherwise regulating or providing for the protection of the environment and relating to Hazardous Materials, or to the existence, use, discharge, release or disposal thereof; including, without limitation the following laws: the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §1801 et seq.), the Safe Drinking Water Act (42 U.S.C. §300(f) et seq.), the Pollution Prevention Act (42 U.S.C. §13101 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §136 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.), the Federal Clean Water Act (33 U.S.C. §1251 et seq.), the Federal Clean Air Act (42 U.S.C. §7401 et seq.) and Mass. Gen. Laws, Ch. 21E.

“Infrastructure Improvements” shall have the meaning set forth in Section 4.1.

“Infrastructure Improvement Activities” means all construction and construction-related activities (including but not limited to applicable engineering, permitting and remediation) reasonably necessary for the completion of Infrastructure Improvements or Supplemental Infrastructure Improvements.

“Level 1 Rail Properties” shall mean that portion of the PAR Freight Rail Properties that are owned by PAR and defined in Exhibit A as Level 1 Rail Properties, for which the MBTA has not exercised the Commuter Rail Election.

“Level 2 Rail Properties” shall mean that portion of the PAR Freight Rail Properties that are owned by PAR for which the MBTA has exercised the Commuter Rail Election, as listed on

Exhibit A as such exhibit may be updated from time to time by the Parties as set forth in Section 4.4.

“Maintenance Services” means all actions necessary or required for the maintenance of the rights-of-way, tracks, bridges, signals, communications equipment and all appurtenances of any relevant section of the PAR Freight Rail Properties or the MBTA Rail Properties in accordance with the Maintenance Standard.

“Maintenance Standard” means, with respect to the Level 1 and Level 2 Rail Properties, the FRA Classification of the track, which FRA Classifications for the applicable track segments as of the Effective Date are set forth on Exhibit D, and with respect to the MBTA Rail Properties, the standards set by the FRA Track Safety Standards for the speeds at which the MBTA Commuter Rail Services trains are operated.

“MBTA” means the Massachusetts Bay Transportation Authority, a body politic and corporate created by and acting pursuant to Chapter 161A of the General Laws of the Commonwealth of Massachusetts, as amended.

“MBTA Commuter Rail Services” means all of the rail operations, including movement of the MBTA materials and equipment, services and activities performed by the MBTA and its commuter rail Operating Contractor (or their respective assignees or designees) in connection with the provision of commuter rail service in the Commonwealth of Massachusetts.

“MBTA Employees” shall mean the employees and agents of the MBTA, and the MBTA’s operating contractors and said contractors’ employees.

“MBTA’s Estimated Fair Market Value” shall have the meaning set forth in Section 6.2(a).

“MBTA Rail Properties” shall mean any portion of the PAR Freight Rail Properties acquired by the MBTA pursuant to the Option to Purchase. Once acquired by the MBTA, such properties shall cease to be PAR Freight Rail Properties for all purposes under this Agreement.

“MBTA Rail Properties Deed” shall mean any deed transferring any of the PAR Freight Rail Properties to the MBTA pursuant to the Option to Purchase or otherwise, which shall reserve to PAR the Retained Easement.

“MBTA Termination Notice” shall have the meaning set forth in Section 5.4.

“Non-Revenue Use” means use of right of way by trains operated to relocate equipment from one point to another for which no fee is charged for the movement of passengers. Non-Revenue Use includes, without limitation, (1) relocation of empty passenger equipment; (2) movement of material and equipment used for maintenance of the railroad by the same railroad and (3) movement of self-powered track maintenance and inspection equipment. For avoidance of doubt, excursion trains shall not be included in the definition of Non-Revenue Use.

“Operating Contractor” means any entity contracted with by the MBTA to provide commuter rail services on behalf of the MBTA.

“Option Property” shall have the meaning set forth in Section 6.2(a).

“Option to Purchase” shall have the meaning set forth in Section 6.1.

“PAR Employees” shall mean the employees and agents of PAR, and PAR’s operating contractors and said contractors’ employees.

“PAR Freight Rail Properties” shall mean Level 1 Rail Properties and Level 2 Rail Properties, as well as the Worcester Main Line property. The PAR Freight Rail Properties shall mean the real property owned by PAR described on Exhibit A hereto and shown on the valuation plans attached as part of such Exhibit A, with the exception of the areas marked with cross-hatching on such valuation plans, provided, however, that the definition of PAR Freight Rail Properties shall include, be modified by, and be subject to the handwritten notes on such valuation plans signed by representatives of both PAR and the MBTA. For avoidance of doubt, the Worcester Main Line property is included in this Agreement solely with respect to the Option to Purchase described in Section 6, and for the sake of clarity, property acquired by PAR subsequent to the Effective Date is not included in the PAR Freight Rail Properties.

“PAR Freight Rail Service” means the present and future full range of freight rail services and activities performed by PAR on the Level 1 Rail Properties, the Level 2 Properties and/or the MBTA Rail Properties and other activities permitted or required under this Agreement.

“Party” means each of the MBTA and PAR.

“Parties” means the MBTA and PAR.

“Person” means any individual, corporation, partnership, association, trust or any other entity or organization, including, without limitation, a government, a public agency, political instrumentality or political subdivision or authority.

“Price Rejection Notice” shall have the meaning set forth in Section 6.2(b)(i).

“Purchase Price” shall have the meaning set forth in Section 6.2(b).

“Retained Easement” means a reserved, retained, perpetual easement for freight rail service over any MBTA Rail Properties acquired pursuant to the exercise of the Option to Purchase which shall provide PAR, or its designee, with the exclusive right to provide freight service and other rights. As described in Section 7.2 herein, the terms of this Agreement that explicitly govern the rights and obligations of the Parties with respect to the MBTA Rail Properties shall be reflected in the Retained Easement; other terms and conditions governing the Retained Easement shall be substantially consistent with the provisions of the 1976 Deed.

“Revenue Service” means the movement of passengers and goods other than MBTA Employees regardless of whether a transportation charge is levied, and shall include the MBTA Commuter Rail Service.

“Service Suspension” means the suspension of PAR Freight Rail Service in order to perform the Infrastructure Improvement Activities.

“STB” means the Surface Transportation Board.

“Supplemental Infrastructure Improvements” shall have the meaning set forth in Section 4.1.

SECTION 2 CATEGORIES OF RAIL PROPERTIES

As shown on Exhibit A hereto, the properties subject to this Agreement shall be classified as Level 1 Rail Properties, Level 2 Rail Properties, and MBTA Rail Properties, with the exception of the Worcester Main Line property described on Exhibit A, which shall be considered a PAR Freight Rail Property but not a Level 1 Rail Property or a Level 2 Rail Property. The rights and responsibilities of the parties with respect to each category of property are set forth in Sections 3, 4, and 5 below. The MBTA may elect to convert Level 1 Properties to Level 2 Rail Properties according to the procedures set forth in Section 4 below, and may convert PAR Freight Rail Properties to MBTA Rail Properties by exercising the option described in Section 6 below. Upon the conversion of a property to a different category, the Parties shall amend Exhibit A to reflect such change.

SECTION 3 LEVEL 1 RAIL PROPERTIES

3.1 MBTA’s General Use

Subject to the provisions of this Agreement, the MBTA, either directly or through its Operating Contractor, may enter upon and utilize the tracks and related operating facilities on the Level 1 Rail Properties for Non-Revenue Use, provided that such use does not unreasonably interfere with PAR’s Freight Rail Service. Except as otherwise provided in Section 3.2, the MBTA may not use the Level 1 Rail Properties for Revenue Service.

3.2 Occasional Use.

Upon the prior written consent of PAR, which consent shall not be unreasonably withheld, conditioned or delayed, and the performance of any Enhanced Maintenance Services that may be reasonably necessary to provide for safe and efficient operations, the MBTA may occasionally divert, as necessary, MBTA Revenue Service over the Level 1 Rail Properties provided that such use does not unreasonably interfere with PAR’s Freight Rail Service. The use of any portion of the Level 1 Rail Properties by the MBTA in accordance with this Section 3.2 shall not require the change in category of such portion to Level 2 Rail properties, nor be deemed

to be an exercise of the MBTA Commuter Rail Option with respect to such portion and shall not convert any portion of the PAR Freight Rail Properties to MBTA Rail Properties.

3.3 Dispatching.

PAR shall provide dispatching services for the Level 1 Rail Properties, and shall establish a dispatching protocol for the Level 1 Rail Properties that (i) will minimize negative impacts on each Party's trains, and (ii) will allow reasonable flexibility within the structure described herein in order to accommodate the movement of each other's trains, *provided however*, that PAR shall have the exclusive right to schedule freight trains.

3.4 Control and Management.

(a) Except as otherwise provided herein, PAR retains the exclusive right to exercise and to perform, or to delegate or subcontract to another entity, the performance of the management, regulatory and operational control of any and all rail service over Level 1 Rail Properties including, without limitation, dispatching and control of all trains. In the exercise of its control over the Level 1 Rail Properties, PAR will give priority to PAR freight trains over all other train scheduling, dispatching and control, but will make all reasonable efforts to expedite the movement of MBTA trains, including expediting repairs to lines, removing obstructions, and scheduling regular maintenance and repair programs at hours which will not unreasonably interfere with such movement.

(b) PAR's contractors and subcontractors performing work or services on Level 1 Rail Properties shall perform and complete their respective work or services in accordance with this Agreement for the provision of such work or services.

3.5 Maintenance

(a) PAR shall provide all Maintenance Services for the Level 1 Rail Properties. All Maintenance Services shall be undertaken in a manner so as to minimize interference with train operations. In all circumstances where a track outage is required for the performance of maintenance that is likely to affect MBTA's operations (except emergency maintenance services), such maintenance work shall be scheduled and PAR shall provide written notice to the MBTA of such maintenance work at least fifteen (15) days in advance of any such track outage if practical.

(b) If the MBTA requests that PAR maintain any portion of the Level 1 Rail Properties to an Enhanced Maintenance Standard, PAR shall perform all required Enhanced Maintenance Services, and the MBTA shall be responsible for any incremental Direct Costs of the Enhanced Maintenance Services. PAR shall provide the MBTA with at least thirty (30) days prior written notice of any planned changes to the Maintenance Standard that are likely to affect the MBTA's operations. In all circumstances where a track outage is required for the performance of maintenance (except emergency maintenance services), such maintenance work shall be scheduled and the PAR shall provide written notice to the MBTA of such maintenance work at least fifteen (15) days in advance of any such track outage.

(c) PAR shall provide and furnish all labor, administrative, professional, and supervisory personnel necessary for its performance of the Maintenance Services under this Section. All PAR personnel or PAR contractor personnel involved in any aspect of providing services under this Agreement shall be subject to the direction, supervision, and control of PAR, and not the MBTA. PAR shall be solely responsible for all labor relations issues relating to PAR Employees that arise in connection with the performance of services under this Agreement.

(d) Unless otherwise stated explicitly in this Agreement, PAR shall be responsible for the costs of materials, equipment, management, and other expenses required for its performance of the Maintenance Services under this Section. If the MBTA desires construction, alterations or improvements on the Level 1 Rail Properties, it shall submit a request to PAR in writing which specifies the work which the MBTA requests PAR to perform on the MBTA's account. Provided that such work would not unreasonably interfere with PAR Freight Rail Services, PAR shall perform such work at the MBTA's sole cost and expense pursuant to Section 8. All such modifications and improvements shall be considered Infrastructure Improvements, the cost of maintenance and renewal of which shall be borne solely by MBTA.

(e) In the event that PAR fails to provide Maintenance Services pursuant to this Section and such failure will have a material adverse effect on the MBTA's operations on the Level 1 Rail Properties, the MBTA may after notice to PAR and PAR's failure to perform the Maintenance Services within seven (7) days, at its option, either with or without the consent or request of Pan Am, maintain the Level 1 Rail Properties and PAR shall reimburse the MBTA for direct costs incurred in rendering such Maintenance Services. The MBTA's decision to provide Maintenance Services pursuant to this Section shall not be considered a waiver of any other remedies available to the MBTA under this Agreement including, without limitation, the remedies set forth in Section 13.

(f) The provisions of this Section do not apply to or otherwise affect the Level 2 Rail Properties or MBTA Rail Properties.

SECTION 4 MBTA COMMUTER RAIL ELECTION

PAR hereby grants the MBTA the right to conduct Revenue Service on the Level 1 Rail Properties, either in connection with the conversion of Level 1 Rail Properties to Level 2 Rail Properties or in connection with the exercise by the MBTA of any Option to Purchase Level 1 Rail Properties, on and after any applicable Commuter Rail Commencement Date in accordance with the provisions of this Section 2.

4.1 Commuter Rail Election Dates

Prior to the commencement of any Revenue Service on any Level 1 Rail Properties (except those operations permitted pursuant to Section 3 of this Agreement), the MBTA shall provide written notice to PAR (any such notice, a "Commuter Rail Election Notice") advising

PAR of the date on which the MBTA intends to commence Revenue Service on a particular portion(s) of the Level 1 Rail Properties (each such date, a "Commuter Rail Commencement Date"), which date may be adjusted pursuant to Section 4.4 herein. Within thirty (30) days after the Commuter Rail Election Notice has been received by PAR for those Level 1 Rail Properties identified in such notice, the MBTA shall provide PAR with the proposed scope of a study specifying the planned level of and proposed schedule for the Revenue Service. The study shall be designed to determine what track, signal and capacity enhancements would be reasonably required on the applicable portion of the Level 1 Rail Properties to allow the provision of such Revenue Service without unreasonable interference with PAR's Freight Rail Service (the "Capacity Study"). PAR shall provide the MBTA with comments on the proposed scope of the Capacity Study, and the MBTA shall consider such comments in finalizing the scope. The MBTA will conduct the Capacity Study, in cooperation and consultation with PAR, and shall construct the track, signal and capacity improvements, modifications and rehabilitations reasonably required by the Capacity Study for the level and proposed schedule of Revenue Service planned by the MBTA, as set forth in Section 4.2 ("Infrastructure Improvements"). The improvements may include the construction of passenger stations along the Level 1 Rail Properties on property to be acquired by the MBTA. MBTA Commuter Rail Services may not increase or be modified from the level or schedules provided for in the Capacity Study after the implementation of the initial set of Infrastructure Improvements, except as set forth in Sections 5.1 or 7.4(b), as applicable, unless the MBTA conducts or funds an additional capacity study to determine whether any additional Infrastructure Improvements will be required to accommodate the additional passenger service (the "Supplemental Infrastructure Improvements"), the MBTA agrees to fund such Supplemental Infrastructure Improvements, and such Supplemental Infrastructure Improvements are constructed and operational.

4.2 Infrastructure Improvements

The MBTA at its sole cost and expense shall engage PAR to perform the Infrastructure and Supplemental Infrastructure Improvement Activities as Force Account Work. The MBTA shall make available to PAR all plans and specifications for any Infrastructure Improvements or Supplemental Infrastructure Improvements, for review and approval by PAR. If PAR reasonably determines that the Commuter Rail Services or any aspect of the Infrastructure Improvements shall unreasonably interfere with PAR Freight Rail Services, then the MBTA and PAR shall agree on modifications to the plans and specifications for the Infrastructure Improvement Activities which will alleviate such unreasonable interference. In the event that the Infrastructure Improvements proposed by the MBTA do not unreasonably interfere with PAR's Freight Rail Service, but PAR fails to perform the Infrastructure Improvement Activities as Force Account Work as required by Section 8 and such failure continues for ten (10) business days after receipt of written notice from the MBTA of such failure, the MBTA may, at its option, either with or without the consent or request of PAR, perform such work itself or may engage a third party to perform such work. PAR shall perform maintenance services required for Infrastructure Improvements constructed pursuant to this Section 4, and such services shall be considered Enhanced Maintenance Services, the costs of which maintenance shall be the responsibility of the MBTA.

4.3 Service Suspensions

Notwithstanding any provision of this Agreement to the contrary, PAR acknowledges that one or more Service Suspensions may be necessary in order to construct Infrastructure Improvements. The timing and duration of such Service Suspensions shall be subject to PAR's reasonable discretion so as not to materially interfere with PAR Freight Rail Service

4.4 Adjustment of Commuter Rail Commencement Date; Conversion of Level 1 Rail Properties to Level 2 Rail Properties

In the event that any Infrastructure Improvements described in any Commuter Rail Election Notice shall not have been completed by the Commuter Rail Commencement Date set forth in such Commuter Rail Election Notice, such Commuter Rail Commencement Date shall be deemed to be the date that such Infrastructure Improvements are actually completed and no Commuter Rail Services shall be initiated prior to such later date. On and after any Commuter Rail Commencement Date (as the same may be adjusted in accordance with the immediately preceding sentence), the portion of the Level 1 Rail Properties described in the Commuter Rail Election Notice shall cease to be Level 1 Rail Properties and shall thereafter be deemed to be Level 2 Rail Properties for all purposes hereunder, and the Parties shall amend Exhibit A hereto to reflect such change.

SECTION 5 LEVEL 2 RAIL PROPERTIES

5.1 Dispatching on Level 2 Rail Properties.

PAR shall provide dispatching services for the Level 2 Rail Properties, and shall establish a dispatching protocol for the Level 2 Rail Properties that (i) will minimize negative impacts on each Party's trains, and (ii) will allow reasonable flexibility within the structure described herein in order to accommodate the movement of each other's trains, *provided however*, that the MBTA shall have the right to schedule passenger trains in consultation with PAR and that in all circumstances a scheduled commuter rail train shall hold a priority for as long as it maintains its schedule within a period that is not more than ten minutes earlier or later than its scheduled time. The parties acknowledge that the scheduling of passenger trains on the Level 2 Rail Properties will likely be extensions of the schedules for existing MBTA Revenue Service on lines connecting to such Level 2 Rail Properties. Changes to previously approved schedules of up to ten (10) minutes shall be made by the MBTA in coordination with PAR, shall seek to minimize negative impacts on the PAR Freight Rail Service, and shall be subject to PAR's approval, not be unreasonably withheld, conditioned, or delayed. The MBTA may propose changes to previously approved schedules of more than ten (10) minutes earlier or later than scheduled times, in which case PAR may require the MBTA to conduct an updated Capacity Study pursuant to Section 4.1 and implement such changes in accordance with Section 4.1.

5.2 Control and Management.

Except as otherwise provided herein, PAR retains the exclusive right to exercise and to perform, or to delegate or subcontract to another entity, the performance of the management, regulatory and operational control of any and all rail service over Level 2 Rail Properties

including, without limitation, dispatching and control of all trains. In the exercise of its control over the Level 2 Rail Properties, PAR will give priority to MBTA commuter trains over all other train scheduling, dispatching and control, including without limitation PAR trains and will make all reasonable efforts to expedite the movement of MBTA trains, including expediting repairs to lines, removing obstructions, and scheduling regular maintenance and repair programs at hours which will not unreasonably interfere with such movement.

5.3 Maintenance of Level 2 Rail Properties

(a) PAR shall provide all Maintenance Services for the Level 2 Rail Properties. Unless otherwise stated explicitly in this Agreement, PAR shall be responsible for the costs of materials, equipment, management, and other expenses required for its performance of the Maintenance Services under this Section. PAR shall provide the MBTA with at least thirty (30) days prior written notice of any proposed changes to the Maintenance Standard that are likely to affect the MBTA's operations. If the MBTA requests that PAR maintain any portion of the Level 2 Rail Properties to an Enhanced Maintenance Standard, PAR shall perform the associated Enhanced Maintenance Services, and the MBTA shall be responsible for any incremental Direct Costs of the Enhanced Maintenance Services, provided, however, that PAR may require, or the MBTA may elect, that the MBTA procure and provide materials for use in the Enhanced Maintenance Services, at the MBTA's sole cost and expense. In all circumstances where a track outage is required for the performance of maintenance that is likely to affect the MBTA's operations (except emergency maintenance services), such maintenance work shall be scheduled and the PAR shall provide written notice to the MBTA of such maintenance work at least fifteen (15) days in advance of any such track outage, if practical.

(b) In the event that PAR fails to provide Maintenance Services or Enhanced Maintenance Services pursuant to this Section 5 and such failure will have a material adverse effect on the MBTA's operations on the Level 2 Rail Properties, the MBTA may after notice to PAR and PAR's subsequent failure to provide Maintenance Services or Enhanced Maintenance Services within seven (7) days, at its option, either with or without the consent or request of PAR, perform such services, and, with respect to Maintenance Services only, PAR shall reimburse the MBTA for Direct Costs incurred in rendering such services. The MBTA's decision to provide Maintenance Services or Enhanced Maintenance Services pursuant to this Section shall not be considered a waiver of any other remedies available to the MBTA under this Agreement including, without limitation, the remedies set forth in Section 10 below. Notwithstanding anything herein to the contrary, the MBTA shall have the right to secure such approvals of regulatory or governmental bodies for such work on the Level 2 Rail Properties as may be necessary, including, without limitation, the FRA and Massachusetts Department of Public Utilities and no approval of PAR shall be required for the performance of any work on the Level 2 Rail Properties, except as may be expressly provided herein.

(c) PAR shall provide and furnish all labor, administrative, professional, and supervisory personnel necessary for its performance of the Maintenance

Services or Enhanced Maintenance Services under this Section. All PAR personnel or PAR contractor personnel involved in any aspect of providing services under this Agreement shall be subject to the direction, supervision, and control of PAR, and not the MBTA. PAR shall be solely responsible for all labor relations issues relating to PAR Employees that arise in connection with the performance of services under this Agreement.

(d) If the MBTA desires construction, alterations or improvements on the Level 2 Rail Properties, it shall submit a request to PAR in writing which specifies the work which the MBTA requests PAR to perform on the MBTA's account. Provided that such work would not unreasonably interfere with PAR Freight Rail Services, PAR shall perform such work at the MBTA's sole cost and expense pursuant to Section 8. All such modifications and improvements shall be considered Infrastructure Improvements, the cost of maintenance and renewal of which shall be borne solely by MBTA.

(e) In connection with any material change in the level of PAR Freight Rail Service from the service levels indicated by the FRA Classifications shown on the attached Exhibit D, either Party may request that the Parties meet to consider an adjustment to the Maintenance Standard and Enhanced Maintenance Standard, and any corresponding adjustment of the costs allocable to each Party for the Enhanced Maintenance Services. Any such adjustments shall be implemented if the Party requesting the adjustment demonstrates, with the cooperation of the other Party, that the Maintenance Standard then in effect no longer corresponds to the standard required for the operation of then-current PAR Freight Rail Service.

(f) The provisions of this Section do not apply to or otherwise affect the Level 1 Rail Properties or the MBTA Rail Properties.

5.4 Reduction in MBTA Use of Level 2 Rail Properties

In the event that the MBTA shall cease to have current use, or, in the MBTA's sole and absolute determination, reasonably foreseeable future use, of all or any portion of the Level 2 Rail Properties for MBTA Commuter Rail Services, or, if in the MBTA's sole and absolute discretion it determines that it no longer wishes to continue the use of all or any such portion of the Level 2 Rail Properties for Revenue Service, the MBTA shall have the option of terminating its use of all or such portion of the Level 2 Rail Properties for Revenue Service by written notice to PAR (an "MBTA Termination Notice"). Following any such termination, such portions of the Level 2 Rail Properties on which the MBTA has terminated Revenue Service shall be deemed to be Level 1 Rail Properties for all purposes under this Agreement. In the event that a portion of the Level 2 Rail Properties shall be deemed to be Level 1 Rail Properties, the provisions of Section 4 herein shall govern any decision in the future to reconvert the Level 1 Rail Properties to Level 2 Rail Properties, provided however that due consideration shall be given to any Infrastructure Improvements or Supplemental Infrastructure Improvements completed as part of the initial conversion of the Level 1 Rail Properties to Level 2 Rail Properties. Any MBTA Termination Notice shall contain a revised Exhibit A reflecting the change in designation.

SECTION 6 MBTA OPTION TO PURCHASE

6.1 Grant of Option to Purchase

PAR hereby grants to the MBTA an option (the “Option to Purchase”) to purchase, subject to, and conditioned upon the receipt of, all applicable regulatory approvals, all or any portion of the PAR Freight Rail Properties upon the terms and conditions set forth in this Section and subject to PAR retaining a Retained Easement upon any such portion of the PAR Rail Properties acquired by the MBTA pursuant to the Option to Purchase. Any conditions placed upon the receipt of any applicable regulatory approvals must be acceptable to PAR in its reasonable discretion. The Option to Purchase shall be a continuing right during the initial 30-year term of this Agreement, and the exercise of the Option to Purchase with respect to any portion of the PAR Rail Properties shall not derogate from the MBTA’s right to exercise the Option to Purchase with respect to any other portion of the PAR Rail Properties, nor shall the failure to consummate the purchase of a portion of the PAR Rail Properties following the exercise of the Option to Purchase with respect to such portion preclude the MBTA from exercising the Option to Purchase with respect to the same portion of the PAR Rail Properties at a later date. PAR may, at any time prior to the MBTA’s issuance of an Exercise Notice (defined below), sell, lease, grant an easement, or otherwise convey any interest in the PAR Freight Rail Properties to a third party (a “Permitted Transfer”), provided however that (1) any such Permitted Transfer shall be subject to the rights of the Commonwealth pursuant to Mass. Gen. Laws Chapter 161C, Section 7, Mass. Gen. Laws Chapter 40, Section 54A, if applicable and any other applicable laws and regulations; (2) any such Permitted Transfer shall not interfere with the MBTA’s rights under this Agreement; and (3) the Option to Purchase shall run with the land.

6.2 Exercise of the Option to Purchase

(a) During the initial term of this Agreement, the Option to Purchase shall be exercisable by the MBTA by written notice (the “Exercise Notice”) given by the MBTA at any time during the initial term of this Agreement. The Exercise Notice shall set forth the portion of the PAR Rail Properties the MBTA intends to purchase (the “Option Property”), include the MBTA’s estimate of the Fair Market Value for such portion of the PAR Rail Properties (the “MBTA’s Estimated Fair Market Value”) and establish the closing date under the P&S (as defined below), which shall not be less than one hundred and twenty (120) days after the date of the Exercise Notice and shall not be more than ninety (90) days after final determination of the Purchase Price as described below. For the purposes of this Section 6, the fair market value of all property subject to this section shall not include any amounts for operating rights on such property, but shall be limited to the value of the land and appurtenant property to be conveyed, with all appropriate physical enhancements normally applied to a contiguous right of way, with such value further adjusted to account for the change in trackage rights liability as further described in Section 11 (such change being from such liability allocation as described in Section 11 for Level 1 and Level 2 properties to the different liability allocation set forth pursuant to the 1976 Deed).

(b) If the MBTA exercises the Option to Purchase with respect to all or any portion of the PAR Rail Properties, the purchase price to be paid for such portion of the PAR Rail Properties shall be the fair market value thereof, determined as follows (the "Purchase Price"):

(1) Within ninety (90) days after receipt of any Exercise Notice, PAR shall either (i) give the MBTA written notice that PAR accepts the MBTA's Estimated Fair Market Value ("Binding Price Notice") or (ii) if PAR disagrees with the MBTA's Estimated Fair Market Value, provide the MBTA with written notice of disagreement (the "Price Rejection Notice"). If PAR fails to provide the MBTA with either a Binding Price Notice or a Price Rejection Notice within such ninety-(90)-day period, PAR shall be deemed to have provided a Binding Price Notice. If PAR provides or is deemed to have provided the MBTA with a Binding Price Notice, the MBTA's Estimated Fair Market Value shall be the Purchase Price under the applicable P&S. If PAR provides the MBTA with a Price Rejection Notice, the MBTA and PAR shall work together in good faith to agree upon the fair market value for the property described in the Exercise Notice. Upon any such agreement, the agreed upon fair market value shall be the Purchase Price under the P&S. If the MBTA and PAR fail to agree upon a fair market value within sixty (60) days after the date PAR provides the MBTA with the Price Rejection Notice, then the fair market value shall be determined in accordance with the arbitration procedures described in Section 6.2(c) below.

(c) Arbitration Procedure.

(1) If the MBTA and PAR have failed to reach agreement as to the Purchase Price within sixty (60) days after the date of a Price Rejection Notice, then, within seven (7) days after the expiration of such sixty (60)-day period, the MBTA and PAR shall each simultaneously submit to the other, in a sealed envelope, its good faith estimate of the fair market value of the Option Property (collectively referred to as the "Estimates"). If the higher of such Estimates is not more than one hundred five percent (105%) of the lower of such Estimates, then the Purchase Price shall be the average of the two Estimates. If the Purchase Price is not resolved by the exchange of Estimates, then, within seven (7) days after the exchange of Estimates, the MBTA and PAR shall each select an appraiser to determine which of the two Estimates most closely reflects the Fair Market Value for the Option Property. Each appraiser so selected shall be certified as an MAI appraiser or as an ASA appraiser and shall have had at least five (5) years experience within the previous ten (10) years as a real estate appraiser working in the area of the Option Property.

For purposes hereof, an "MAI" appraiser means an individual who holds an MAI designation conferred by, and is an independent member of, the American Institute of Real Estate Appraisers (or its successor organization, or in the event there is no successor organization, the organization and designation most similar), and an "ASA" appraiser means an individual who holds the Senior Member designation conferred by, and is an independent member of, the American Society of Appraisers (or its successor organization, or, in the event there is no successor organization, the organization and designation most similar).

(2) Upon selection, the MBTA's and PAR's appraisers shall work together in good faith to agree upon which of the two Estimates most closely reflects the fair market value for the Option Property. The Estimate chosen by such appraisers shall be binding on both the MBTA and PAR as the Purchase Price for the Option Property. If either the MBTA or PAR fails to appoint an appraiser within the seven-(7)-day period referred to above, the appraiser appointed by the other party shall be the sole appraiser for the purposes hereof. If the two appraisers cannot agree upon which of the two Estimates most closely reflects the fair market value of the Option Property within twenty (20) days after their appointment, then, within ten (10) days after the expiration of such twenty-(20)-day period, the two appraisers shall select a third appraiser meeting the aforementioned criteria. Once the third appraiser (i.e., arbitrator) has been selected as provided for above, then, as soon thereafter as practicable but in any case within fourteen (14) days, the arbitrator shall make his determination of which of the two Estimates most closely reflects the fair market value of the Option Property and such Estimate shall be binding on both the MBTA and PAR as the Purchase Price under the applicable P&S. If the arbitrator believes that expert advice would materially assist him, he may retain one or more qualified persons to provide such expert advice. The Parties shall share equally in the costs of the arbitrator and of any experts retained by the arbitrator. Any fees of any appraiser, counsel or experts engaged directly by the MBTA or PAR, however, shall be borne by the party retaining such appraiser, counsel or expert.

(3) If the Purchase Price has not been determined by the date which is thirty (30) days prior to the closing date set forth in the Exercise Notice, the closing date under the P&S shall be the date which is thirty (30) days after the determination of the Purchase Price.

(d) If the MBTA exercises the Option to Purchase by giving notice as provided above and accepts in writing the Purchase Price determined as set forth above, then the giving of such notice of exercise by the MBTA and its written acceptance of the

Purchase Price shall be deemed, without the execution of any other instrument or the taking of any other action, to create a binding contract between PAR and the MBTA for the purchase and sale of the Option Property set forth in the applicable exercise notice upon the substantive terms and conditions set forth in the Purchase and Sale Agreement attached hereto as **Exhibit B** (the "P&S") and this Section. In the event that the MBTA does not accept the Purchase Price as determined above, the MBTA may, by written notice to PAR, decline to execute the P&S, in which case the MBTA will reimburse PAR for PAR's share of the costs of the appraisal and all other reasonable costs associated with the process of preparing for the sale pursuant to this Section 6. In the event of such non-acceptance of the Purchase Price, the Option to Purchase shall remain in effect for all properties subject to this Agreement, and may be exercised again by the MBTA during the initial term.

SECTION 7 MBTA RAIL PROPERTIES

7.1 Conversion to MBTA Rail Properties

In conjunction with the exercise of the Option to Purchase, the MBTA and PAR shall comply with the obligations to conduct a Capacity Study and implement Infrastructure Improvements or Supplemental Infrastructure Improvements as set forth in Sections 4.1 and 4.2 above. Following the acquisition by the MBTA of all or any portion of the PAR Freight Rail Properties, such acquired properties shall, for the purposes of this Agreement, cease to be either Level 1 Rail Properties or Level 2 Rail Properties (or, in the case of the Worcester Main Line property described on **Exhibit A**, a PAR Freight Rail Property) and shall thereafter be deemed to be MBTA Rail Properties for all purposes hereunder, and the Parties shall execute an amendment to this Agreement which contains a revised Exhibit A reflecting the change in designation.

7.2 Operations Governed by this Agreement and MBTA Rail Properties Deed

The MBTA Rail Properties Deed (including the Retained Easement) transferring MBTA Rail Properties from PAR to the MBTA shall contain provisions which continue in full force and effect the rights and obligations set forth in this Agreement. To the extent that the 1976 Deed contains rights and obligations other than as set forth herein, the Deed shall contain terms and conditions consistent with those in the 1976 Deed, including the conditions applicable to alteration of the MBTA Rail Properties by the MBTA and PAR (other than the construction of Infrastructure Improvements or Supplemental Infrastructure Improvements pursuant to Section 4.2) shall be consistent with Section E(1) of the 1976 Deed.

7.3 Access to MBTA Rail Properties.

Consistent with the Retained Easement and subject to this Agreement, PAR shall have the right to use the MBTA Rail Properties to provide PAR Freight Rail Service. Notwithstanding any provision of this Agreement to the contrary, the Parties agree that the MBTA shall have the right to use the PAR Rail Properties to transport baggage, and other matter and material as is or may be on occasion carried by the MBTA, including equipment or other material for use by or for the MBTA or its non-freight related agents or contractors.

7.4 Limitations on Access Rights.

The rights of PAR to use the MBTA Rail Properties, as described above, shall be limited as follows:

(a) The MBTA Rail Properties shall be jointly used by PAR for PAR Freight Rail Service and related uses and by the MBTA for the MBTA Commuter Rail Services and related uses, in accordance with the terms set forth herein and in the Retained Easement. Nothing in this Agreement shall derogate from the MBTA's right to utilize, directly or through its Operating Contractor, or to permit other passenger carrier(s) to utilize any portion of the MBTA Rail Properties for the provision of the MBTA Commuter Rail Services, including without limitation, intercity service as well as commuter service; provided, however, that use by other passenger carrier(s) of the MBTA Rail Properties may require an additional Capacity Study and the construction of additional Infrastructure Improvements or Supplemental Infrastructure Improvements pursuant to Section 4.1 and Section 4.2 above.

(b) PAR, or, in the event that the MBTA assumes dispatching responsibilities pursuant to Section 7.5 below, the MBTA, shall establish a dispatching protocol for the MBTA Rail Properties that (i) will minimize negative impacts on each Party's trains, and (ii) will allow reasonable flexibility within the structure described herein in order to accommodate the movement of each other's trains, *provided however*, that the MBTA shall have the right to schedule commuter rail trains in consultation with PAR which are consistent with the schedules planned for pursuant to the Capacity Study provided for in Section 4.1 above and that in all circumstances a scheduled commuter rail train shall hold a priority for as long as it maintains its schedule within a period that is not more than ten minutes earlier or later than its scheduled time. The Parties acknowledge that the scheduling of passenger trains on the MBTA Rail Properties will likely be extensions of the schedules for existing MBTA passenger service on lines connecting to such MBTA Rail Properties. Changes to previously approved schedules of up to ten (10) minutes shall be made by the MBTA in coordination with PAR, shall seek to minimize negative impacts on the PAR Freight Rail Service, and shall be subject to PAR's approval, not be unreasonably withheld, conditioned, or delayed. The MBTA may propose changes to previously approved schedules of more than ten (10) minutes earlier or later than scheduled times, in which case PAR may require the MBTA to conduct an updated Capacity Study pursuant to Section 4.1 and implement such changes in accordance with Section 4.1.

7.5 Dispatching, Control and Management.

(a) PAR shall continue to provide dispatching of all operations over the MBTA Rail Properties at its sole cost and expense after the conversion of any PAR Freight Rail Properties to MBTA Rail Properties, provided, however, that the MBTA may at any time assume such dispatching responsibilities if it determines, in its reasonable discretion, that PAR has, on fifteen (15) or more days during any thirty (30) day period (excepting any period during which construction of any Infrastructure

Improvements, Supplemental Infrastructure Improvements, or Force Account projects, or the occurrence of Force Majeure events, materially impacted service), performed dispatching in a manner materially contrary to the overall dispatching protocols described in Section 7.4. However, if PAR demonstrates to the MBTA that, in the reasonable discretion of the MBTA, PAR has rectified any conditions that caused PAR's failure to perform dispatching in accordance with Section 7.4, the MBTA shall transfer dispatching responsibility back to PAR.

(b) In the event that the MBTA assumes control of dispatching services, in order to allow for the transfer of dispatching control to MBTA or its Operating Contractor on the MBTA Rail Properties PAR will provide full cooperation and access in locating and activating switching (transfer) equipment at necessary sites, on either MBTA or PAR property, in order to establish the capability or activation of train control machines controlling the MBTA Rail Properties at the MBTA dispatching center and deactivation of the train control machines at the PAR dispatching center. PAR shall provide this cooperation within 30 days of direction from the MBTA. Such work shall be performed as Force Account Work under this Agreement or by the MBTA or third parties engaged by the MBTA, at its sole discretion.

(c) Upon completion of all installation and activation of switching equipment to enable dispatching from the designated MBTA dispatching center, the MBTA shall have the exclusive right to exercise and to perform, or to delegate or subcontract to another entity, the performance of the management, regulatory and operational control of any and all rail service over MBTA Rail Properties including, without limitation, dispatching and control of all trains. In the exercise of its control over the MBTA Rail Properties, the MBTA will give priority to the MBTA passenger trains over all other train scheduling, dispatching and control, including without limitation freight service. The costs of the dispatching by the MBTA or its Operating Contractor shall be the responsibility of the MBTA.

(d) Notwithstanding anything herein to the contrary, the MBTA may, in its sole discretion, decline to assume dispatching control of the MBTA Rail Properties, in which event PAR shall dispatch the MBTA Rail Properties at PAR's sole cost and expense, and subject to the scheduling provisions of Section 7.3(b) and Section 7.4(b).

7.6 Maintenance

(a) The MBTA shall provide all Maintenance Services for the MBTA Rail Properties. All Maintenance Services shall be undertaken in a manner so as to minimize interference with train operations. In all circumstances where a track outage is required for the performance of maintenance (except emergency maintenance services), such maintenance work shall be scheduled and the MBTA shall provide written notice to PAR of such maintenance work at least fifteen (15) days in advance of any such track outage.

(b) If PAR requests that the MBTA maintain a portion of the MBTA Rail Properties to an Enhanced Maintenance Standard, the MBTA shall perform the associated Enhanced Maintenance Services, and PAR shall be responsible for any incremental Direct Costs of the Enhanced Maintenance Services. For avoidance of doubt, the costs of maintenance of any Infrastructure Improvements or Supplemental Infrastructure Improvements constructed to accommodate MBTA Revenue Service shall be performed at the MBTA's sole cost and expense as set forth in Section 4.2. The MBTA shall provide PAR with at least thirty (30) days prior written notice of any planned changes to the Maintenance Standard that are likely to affect PAR's operations.

(c) MBTA shall provide and furnish all labor, administrative, professional, and supervisory personnel necessary for its performance of the Maintenance Services under this Section. All the MBTA personnel or the MBTA contractor personnel involved in any aspect of providing services under this Agreement shall be subject to the direction, supervision, and control of the MBTA, and not PAR. The MBTA shall be solely responsible for all labor relations issues relating to the MBTA Employees that arise in connection with the performance of services under this Agreement.

(d) Unless otherwise stated explicitly in this Agreement, the MBTA shall be responsible for the costs of materials, equipment, management, and other expenses required for its performance of the Maintenance Services under this Section. If PAR desires construction, alterations or improvements on the MBTA Rail Properties, such improvements shall be considered Infrastructure Improvements, and PAR shall submit a request to the MBTA in writing which specifies the work which PAR requests the MBTA to perform on PAR's account. The MBTA shall perform such work at PAR's sole cost and expense pursuant to Section 8 unless the MBTA determines in its reasonable discretion that: (i) such work will have an adverse effect on MBTA Passenger Rail Services and (ii) PAR fails to satisfactorily mitigate such adverse effect. The MBTA shall perform Maintenance Services required for Infrastructure Improvements constructed pursuant to this Section 7.6(d), and such services shall be considered Enhanced Maintenance Services, the costs of which maintenance shall be the responsibility of PAR.

(e) In the event that the MBTA fails to provide Maintenance Services or Enhanced Maintenance Services pursuant to this Section and such failure will have a material adverse effect on PAR's Freight Rail Services on the MBTA Rail Properties, PAR may after notice to the MBTA and the MBTA's failure to perform the Maintenance Services or Enhanced Maintenance Services within seven (7) days, at its option, either with or without the consent or request of the MBTA, maintain the MBTA Rail Properties and, with respect to Maintenance Services only, the MBTA shall reimburse PAR for Direct Costs incurred in rendering such services. PAR's decision to provide Maintenance Services or Enhanced Maintenance Services pursuant to this Section shall not be considered a waiver of any other remedies available to PAR under this Agreement including, without limitation, the remedies set forth in Section 14. Notwithstanding anything herein to the contrary, PAR shall have the right to secure such approvals of regulatory or governmental bodies for such work on the MBTA Rail Properties as may be necessary, including, without limitation, the FRA and Massachusetts Department of

Public Utilities and no approval of MBTA shall be required for the performance of any work on the MBTA Rail Properties, except as may be expressly provided herein.

(f) In connection with any material change in the level of MBTA Commuter Rail Service from the service levels studied in the Capacity Study, either Party may request that the Parties meet to consider an adjustment to the Maintenance Standard and Enhanced Maintenance Standard, and any corresponding adjustment of the costs allocable to each Party for the Enhanced Maintenance Services. Any such adjustments shall be implemented if the Party requesting the adjustment demonstrates, with the cooperation of the other Party, that the Maintenance Standard then in effect no longer corresponds to the standard required for the operation of then-current MBTA Commuter Rail Service.

(g) The provisions of this Section do not apply to or otherwise affect the PAR Freight Rail Properties.

SECTION 8 FORCE ACCOUNT WORK

8.1 General Authority.

(a) The MBTA may at its discretion request PAR to perform Force Account Work to implement any Infrastructure Improvement Activities or other work to construct or install other additions and betterments on the Level 1 Rail Properties or the Level 2 Rail Properties pursuant to this Agreement, and PAR may at its discretion request the MBTA to perform such Force Account Work on the MBTA Rail Properties. For the purposes of this Section 8, "Controlling Party" shall mean PAR with respect to the Level 1 Rail Properties and the Level 2 Rail Properties, and the MBTA with respect to the MBTA Rail Properties, and "Requesting Party" shall mean the MBTA with respect to the Level 1 Rail Properties and the Level 2 Rail Properties, and PAR with respect to the MBTA Rail Properties. So long as the Parties agree on the terms of a PI (defined below), the Controlling Party shall perform Force Account Work for the Requesting Party at the Requesting Party's sole cost and expense.

(b) All Force Account Work shall be performed in full and strict compliance with all applicable terms and conditions of this Agreement.

(c) The Controlling Party shall perform Force Account Work using its own personnel and others as may be necessary, without any impact to any Controlling Party obligation to provide other services under this Agreement or freight or commuter rail service in general over the balance of the Controlling Party's system. The Controlling Party shall use its own personnel performing other services pursuant to this Agreement in the execution of Force Account Work to the extent that doing so does not interfere with the performance of such other services.

(d) The Controlling Party shall assign its personnel to perform Force Account Work, to the extent that such assignment does not adversely affect the provision of other services required under this Agreement or freight or commuter rail service in general over the balance of

the Controlling Party's system. If the Controlling Party cannot assign its personnel to the performance of Force Account Work without adversely affecting the provision of other services due under this Agreement or freight or commuter rail service in general over the balance of the Controlling Party's system, the Controlling Party may assign or hire other personnel to the performance of Force Account Work. Compensation for use of Controlling Party personnel for Force Account work shall conform to the provisions of Exhibit C, Direct Costs Billable for Force Account Work.

8.2 Request For Force Account Work.

The Requesting Party shall initiate Force Account Work Projects by preparing and delivering to the Controlling Party for review and approval a Project Initiation ("PI") and/or Change Order ("CO") form. The Requesting Party's request shall include for review and approval by the Controlling Party a description of the work to be performed and any plans, specifications and requirements that the Requesting Party determines should govern the Force Account Work Project. The Controlling Party shall, within sixty (60) days of receipt provide a response to the PI or CO request which shall include a comprehensive cost proposal for the Force Account Work Project including staffing plans, resource requirements, and itemized, auditable costs in a format approved by the Requesting Party and consistent with Exhibit C, Direct Costs Billable for Force Account Work, as well as a schedule that includes important milestones for completing the Force Account Work Project. The Parties shall work together in good faith to agree upon a final cost proposal for a project. The Controlling Party shall make every effort to comply with the cost proposals and schedules, and shall notify the Requesting Party immediately after the Controlling Party becomes aware that a deviation from such proposal or schedule is likely.

8.3 Emergency Force Account Work Projects

In the event of an emergency or when, in the reasonable discretion of the Requesting Party, expeditious response is required, the Requesting Party may orally direct the Controlling Party to undertake necessary Force Account Work, and the Controlling Party shall perform such work in the most expeditious manner possible. The Requesting Party shall deliver to the Controlling Party written confirmation of the Force Account Work request within forty-eight (48) hours of issuing such oral directive and issue a PI or CO for the Force Account Work as soon as reasonably practicable thereafter. The Controlling Party shall be entitled to payment for such emergency force account work performed upon oral direction consistent with Section 8.7 of this Agreement.

8.4 Initiation of Force Account Work Projects. Completion of the PI form and signature by the Controlling Party's and the Requesting Party's authorized representatives shall constitute an agreement to perform the requested Force Account Work. The cost estimate detailed in the PI shall constitute the amount Contractor is authorized to spend. This amount may only be increased through execution of a CO. The Controlling Party shall perform the Force Account Work according to the schedule detailed in the PI, unless the Parties execute a CO revising such schedule.

8.5 **Changes to Force Account Work Projects.** Changes to a PI for Force Account Work shall be initiated by execution of a CO form. Each proposed CO for a Force Account Work Project shall cite the number of the PI that the CO revises. Completion of the CO form and signature by an authorized representative of the Requesting Party shall constitute agreement regarding the change. No changes shall be made on the basis of oral requests, except in the event of an emergency situation as set forth in Section 8.2(b) above.

8.6 **80% Expenditure Notice.** Unless otherwise agreed to by the parties, the Controlling Party shall promptly notify the Requesting Party in writing when the Controlling Party has spent or obligated eighty percent (80%) of the funds authorized for a Force Account Work Project. Such notice shall include: a description of the incomplete work and the estimated cost of completing such work; a schedule update; and notice of any unsafe condition or impact on revenue service that may arise if work on the Force Account Work Project ceases before completion. If the Requesting Party determines that the Force Account Work Project may exceed its approved cost or continue beyond its approved schedule, the Requesting party may issue a CO authorizing the Controlling party to continue the Force Account Work Project based on the new estimate or schedule, or may direct the Controlling Party to terminate the Force Account Work Project as promptly and inexpensively as feasible. The Controlling Party shall have no obligation to perform work on a Force Account Work Project after the cost limit specified in a PI (and any COs that modify such PI) has been reached, with the exception of work that is, in the determination of the Requesting Party, necessary to prevent or remedy any unsafe condition or to prevent disruption of revenue service. The parties agree that for projects where the work is expected to be completed in no more than one month, the 80% notice requirement shall be waived.

8.7 **Force Account Work Project Costs.**

(a) The Controlling Party shall document all Direct Costs incurred in the performance of Force Account Work, separate from the records Contractor keeps for the costs of providing Agreement Services other than Force Account Work. All invoices for Force Account Work Projects submitted by the Controlling Party to the Requesting Party shall include the number of staff-hours and cost of labor expended; the costs of associated employee benefits; quantities and costs of materials consumed; the cost of subcontracted services; equipment usage and associated costs; and any other allowable Direct Costs for performing the Force Account Work Project. The Controlling Party's cost proposals and invoices shall indicate the number of hours worked by its personnel on each Force Account Work Project, and shall include a calculation of the Controlling Party's total charges for such hours during the relevant year. Within the cost limit specified in the PI, the Requesting Party shall compensate the Controlling Party for all work actually performed pursuant to the PI, according to the provisions of Section 8 and Exhibit C, Direct Costs Billable for Force Account Work. On the first day of each month during the performance of each project, the Controlling Party shall submit an estimated invoice to the Requesting Party for work scheduled to be performed in the subsequent month. Subject to inspection and final audit as provided in Section 8.9, the Requesting

Party shall submit payment for such invoice to the Controlling Party within fifteen (15) days of receipt, and any discrepancies shall be reconciled during the audit process.

(b) In the event that PAR is the Controlling Party, PAR may require, or the MBTA may elect, that the MBTA and/or the Requesting Party acquire all materials to be utilized on a project from vendors mutually agreed upon and at no cost to PAR.

(c) In the event that PAR is the Controlling Party, PAR shall have the election to retain any materials salvaged for its own account and the cost of such salvage shall not be reimbursed to PAR, nor shall the project receive a credit for the value of such salvage.

8.8 Project Completion. Upon completion of a Force Account Work Project, or earlier at the sole discretion of the Requesting Party, the Requesting Party will issue to the Controlling Party a Project Completion Order. The Controlling Party shall submit all final invoices of bills required for compensation under the terms of this Section within ninety (90) days of the date of such order, to be paid by the Requesting Party within fifteen (15) days of receipt. All claims for compensation made after that time shall be waived by the Controlling Party.

8.9 Audit and Inspection.

(a) The Controlling Party shall ensure that all Force Account Work conforms to all applicable laws, regulations and standards for the performance of such services, except where different standards are specified in the applicable PI.

(b) The Requesting Party shall have the right to have its representative(s) present at the site of a Force Account Work Project for the purpose of inspecting work performed and to ensure that all work is progressing according to the agreed-upon schedule. Inspections may be unannounced and conducted at any location at any time, provided that all applicable safety rules and practices are followed.

(c) The Requesting Party, in its reasonable discretion, shall approve the quality and completeness of all Force Account Work performed by the Controlling Party. Measurement of the adherence to the requirements of this Agreement and the applicable PI shall be evaluated based on the results of inspections performed at the discretion of the Requesting Party, as described above. Where the Force Account Work does not meet all applicable laws, regulations, or standards, or the applicable PI specifications, the Parties shall meet promptly to determine what additional work should be performed in order to satisfy those requirements. the Controlling Party shall remedy all unsatisfactory Force Account Work at no additional cost to the Requesting Party.

8.10 Completion of Force Account Work. Upon termination of this Agreement, the Controlling Party shall continue to perform all incomplete Force Account Work only to the extent necessary to remedy any unsafe condition on the property, except as otherwise agreed to by the Parties.

8.11 **Subcontracts.** the Controlling Party may subcontract Force Account Work if it believes doing so is necessary or efficient, provided, however, that any such subcontracts shall be subject to the reasonable approval of the Requesting Party.

SECTION 9 COMPENSATION

9.1 Consideration for Amendment to 1976 Deed.

The Parties hereby agree that the consideration granted by the MBTA to PAR for the operating rights granted by PAR to the MBTA pursuant to this Agreement includes the amendment of the 1976 Deed or the execution of such other documentation agreed upon by the Parties, to eliminate trackage rights fees or other fees owed pursuant to such deed or any other agreements with respect to the properties governed by the 1976 Deed unless and until this Agreement is terminated by either Party for an Event of Default of the other Party pursuant to Section 13.1. The MBTA will execute such deed amendment or other documentation and cause such amendment or other documentation to be recorded as necessary. With respect to properties purchased by the MBTA pursuant to the Option to Purchase, in the event of the subsequent termination of this Agreement, the MBTA may not implement fees for PAR's use of such MBTA Rail Properties except for Enhanced Maintenance Services or as otherwise set forth in this Agreement.

9.2 Compensation

Each Party shall pay to the other pursuant to the terms of this Agreement the following compensation: (a) any incremental Direct Costs incurred by a Party for Enhanced Maintenance Services as described in this Agreement; and (b) charges for Force Account Work in accordance with Section 8.

9.3 Reimbursement.

In the event that either Party is obligated to reimburse the other for any cost or expense set forth in Section 9.2 above, the Party so obligated shall reimburse the other for the actual, auditable Direct Costs of such work within 15 days of receiving an invoice from the other Party. Amounts not paid by a Party within 15 days of receiving an invoice shall thereafter accrue interest at the Effective Interest Rate.

SECTION 10 TERM

This Agreement shall commence on the Effective Date and shall be for a Term of thirty (30) years, unless terminated earlier pursuant to its terms. Notwithstanding the foregoing, the Parties agree that this Agreement shall remain in full force and effect during any interim period between the end of the Term of this Agreement (or the termination hereof for any reason other than mutual agreement of the Parties) and the execution of a new, revised, or extended trackage rights agreement covering all of the PAR Rail Properties and the MBTA Rail Properties. The Parties acknowledge that expiration or termination of this Agreement will not affect the validity,

continuation or perpetual nature of any Freight Easement or any other easement rights vested in PAR with regard to any MBTA Rail Properties.

SECTION 11 INDEMNIFICATION, LIABILITY AND INVESTIGATION

11.1 General

Liability for personal injury or property damage with respect to the Level 1 Rail Properties or the Level 2 Rail Properties shall be allocated as provided in this Section 11. Liability for personal injury or property damage with respect to the MBTA Rail Properties shall be in accordance with the terms of the 1976 Deed. For the purpose of this Section, no Party shall be deemed to be a "contractor" of any other Party.

11.2 Harm Involving One Party Only

(a) Whenever any loss of, damage to, or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever (including, without limitation, commuter rail passengers or other invitees or trespassers), occurs with the trains, locomotives, rail cars or rail equipment, or employees or agents of, or in the account of, only MBTA being involved, then MBTA shall assume all liability therefor, and bear all cost and expense in connection therewith, including reasonable attorneys' fees.

(b) Whenever any loss of, damage to, or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever (including, without limitation, commuter rail passengers or other invitees or trespassers), occurs with the trains, locomotives, rail cars or rail equipment, or employees or agents of, or in the account of, only PAR being involved, then PAR shall assume all liability therefor, and bear all cost and expense in connection therewith, including reasonable attorneys' fees.

11.3 Harm Caused by Third Party

In the event that harm, damage or injury (including death) is caused solely by an act or omission for which a third party is legally responsible, to the property of, or in the custody of, one of the Parties hereto, or to the employees, passengers or licensees of one of the Parties hereto, that Party shall assume all loss, cost and expense arising therefrom, without contribution from the other party. This Section is not intended to relieve any third party from any liability.

11.4 Harm Involving Both Parties

Whenever any loss of, damage to or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever (including, without limitation, commuter rail passengers or other invitees), occurs with the trains, locomotives, rail cars or rail equipment, or the employees of, or in the account of, both the MBTA and PAR being involved, then:

(a) The MBTA and PAR shall separately assume and bear all liability, cost and expense for loss of, damage to or destruction of trains, locomotives, rail cars (including, without limitation, lading) and rail equipment operated by each of them.

(b) The MBTA and PAR shall separately assume and bear all liability, cost and expense for injury to and death of the officers, agents, contractors and employees employed or engaged by each of them, except as set forth in Section 11.5.

(c) Each Party shall assume and bear all liability, cost, and expense for injury to or death of any person (including, without limitation, trespassers) not referenced in paragraphs (a) or (b) above, and for loss of, damage to and destruction of all other property not referenced in paragraphs (a) or (b) above, caused by the negligence or fault of such Party; provided, however, that the MBTA shall indemnify PAR for claims described in this paragraph (c) arising from the negligence or fault of (but not the gross negligence or willful misconduct of) PAR, to the extent that such claims fall within the MBTA's program of self-insurance described in Section 12.1(b) below and exceed \$3,000,000 in the aggregate and per occurrence.

11.5 Gross Negligence or Willful Misconduct

Whenever any loss of, damage to, or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever, occurs as the result of the gross negligence or willful misconduct of a Party, such Party shall bear all cost and expense in connection therewith, including reasonable attorneys' fees.

11.6 Derailment or Accident

In the event of any derailment or other accident occurring upon the Rail Properties wherein cars, motive power or other equipment of either Party shall fall or encroach upon tracks, bridges or other property being used by the other Party so that said property is blocked or normal operation thereover is impeded, the Party whose property has so fallen or encroached shall expeditiously remove the same and cause all necessary repairs to be made and all tracks and appurtenances restored, at its expense, as may be required for the continued operation of the other Party's railroad activities. Both parties agree to cooperate with each other to expedite the repair and removal of such cars, motive power and other equipment and will make all reasonable efforts to restore the affected line or facility to service.

11.7 Administration of Claims

(a) All claims, injuries, deaths, property damages and losses arising out of or connected with this Agreement shall be investigated, adjusted and defended by the Party bearing the liability, cost and expense therefor under the provisions of this Agreement.

(b) The Party hereto receiving notice of the filing of a claim will promptly notify the other Party of such filing where liability therefor may be joint or that of the other Party hereto. MBTA and PAR will cooperate with each other in all such

investigations, adjustments, and defenses, and MBTA and PAR will provide each other, upon request therefor, a copy of all documents and written communications and produce witnesses, experts or exhibits in their employment or control to assist in the preparation and defense of any such claim and/or litigation with respect thereto.

(c) In the event a claim or suit is asserted against any Party which is another's duty hereunder to investigate, adjust or defend, then, unless otherwise agreed, such other Party shall, upon request, take over the investigation, adjustment and defense of such claim or suit, and the Party relieved of duties in respect of such claim or suit shall cooperate as requested by the Party investigating, adjusting or defending said claim or suit.

(d) All costs and expenses in connection with the investigation, adjustment and defense of any claim or suit under this Agreement shall be included as costs and expenses in applying the liability provisions set forth in this Agreement.

(e) Neither Party shall settle or compromise any claim, demand, suit or cause of action for which the other Party has any liability under this Agreement without the concurrence of such other Party if the consideration for such settlement or compromise exceeds Fifty Thousand and no/100 Dollars (\$50,000.00).

SECTION 12 INSURANCE

12.1 General

This Section 12.1 sets forth the insurance requirements of this Agreement with respect to the Level 1 Rail Properties and the Level 2 Rail Properties, and shall not apply to the MBTA Rail Properties.

(a) The MBTA shall maintain an adequate program of self-insurance which will cover claims and liabilities for loss, damage, injury or death arising out of or connected with this Agreement, including, without limitation, MBTA's contractual liabilities under this Agreement, in the amounts and as provided for in paragraph 12.1(b) hereof. The obtaining of such policy of insurance and the establishment of said self-insurance program, and the maintenance of both in full force and effect by MBTA is a material obligation of this Agreement. In the event that such insurance policy is canceled for any reason, then MBTA shall replace said policy during the notification period with another policy in like amount and coverage protection or, in the case of the self-insurance program, the MBTA shall re-establish such program.

(b) The MBTA, at its sole cost and expense, shall procure and shall maintain during the entire term of this Agreement, liability insurance covering PAR as an additional named insured as agreed and provided in the terms and conditions of paragraph 12.1(a) hereof. The said liability insurance shall have a limit of not less than \$75,000,000 (or such other amount required by law) combined single limit for personal injury and property damage per occurrence, with deductibles or self-assumed amounts

not in excess of \$7,500,000. The said liability coverage within its terms and conditions shall extend coverage to PAR for third party personal injury and property damage.

12.2 Period of Coverage

Each Party's responsibility under this Section shall apply to any liability arising on or after the Effective Date of this Agreement, and shall extend beyond the date of expiration or termination of this Agreement with respect to any event occurring or liability arising during the term of this Agreement.

12.3 Certificates

The MBTA shall furnish to PAR Certificates of Insurance (and, upon request, copies of all required insurance policies, including endorsements and declarations) evidencing compliance with the requirements set forth in this Section on the Effective Date of this Agreement, and upon the request of PAR, annually thereafter. The policies shall be endorsed to (1) provide that the policy shall not be cancelled or coverage reduced without sixty (60) days prior notice of cancellation or reduction to the other party, and (2) name PAR, and its directors, officers, agents and employees, as additional insureds with respect to occurrences relating to the performance of the obligations set forth in this Agreement; (3) provide that such coverage is primary and non-contributory to any insurance or self-insurance procured and maintained by the other party; and (4) provide that to the extent reasonably available, all policies shall not contain any terrorism exclusions, or if they so contain such exclusions, shall contain endorsements providing coverage for acts of terrorism, both foreign and domestic, and both certified and non-certified by the Secretary of the Treasury of the United States. In the event any insurance policy required under this Agreement is cancelled or has its aggregate limits coverage reduced by 25% or more, then the MBTA and/or its Operating Contractor (as the case may be) shall replace such policy or reinstate the aggregate limits during the notification period referred to above with another policy in like amount and coverage protection.

12.4 Self-insurance

The MBTA's self-insurance programs and insurance policies with self-insured retentions must provide at least the same protection from liability and defense of suits as would be afforded by "first dollar" insurance. If the MBTA fails or refuses to pay any losses within a permitted self-insured retention, such failure or refusal shall be an Event of Default under this Agreement.

12.5 PAR Insurance Policies

All insurance policies procured by either party and in force with respect to the properties governed by this Agreement shall contain waivers of subrogation against the other party.

SECTION 13 DEFAULT AND BREACH; TERMINATION

13.1 Default and Breach

(a) Each of the following shall constitute an "Event of Default" under this Agreement:

(1) Any late payment of compensation under Section 6 or other provisions of this Agreement remaining outstanding for more than four (4) months;

(2) The commencement of any proceeding by or against either Party which might result in any modification of the obligations hereunder under any bankruptcy, insolvency or similar law, unless all of the obligations of such party shall have been duly assumed by a trustee or successor to such party within sixty (60) days after such proceeding shall have commenced;

(3) The failure to perform any other covenant or obligation in this Agreement, which failure shall have continued for more than thirty (30) days following the date of written notice thereof.

(b) If an Event of Default shall occur, the Party not in default may exercise any or all of the following remedies:

(1) Terminate this Agreement by and upon sixty (60) days written notice to the defaulting Party; or

(2) Regardless of whether this Agreement is terminated pursuant to Section 10.1(b)(1), pursue any other remedy at law or in equity in any state or federal court in Massachusetts, subject to the provisions of Section 11.

(3) Provided, however, that the MBTA shall have no right to terminate PAR's Retained Easement in the event of default.

(c) The Parties hereto expressly acknowledge that the nature and purpose of this Agreement is such that damages may not be an adequate remedy for any default or breach so occurring, and that equitable relief, such as injunction, mandatory or otherwise, including specific performance, may be necessary in the event a Party fails to cure a breach or default so occurring; in such case, the aggrieved Party may take such legal action as it deems appropriate and may file immediately any and all pleadings in any state or federal court in Massachusetts to secure an injunction of the action or inaction resulting in such default or breach, pending resolution of the matter pursuant to the dispute resolution procedures set forth in Section 11 below; and that, except with respect to the seeking of such equitable relief, any and all controversies arising out of or connected with any default or breach so occurring shall be resolved exclusively by dispute resolution and arbitration in accordance with the provisions of Section 11 hereof.

Nothing contained in this Section shall be construed to limit or restrict the Parties' rights and obligations under Section 10.2.

(d) An Event of Default shall not be waived or satisfied by the failure of a Party to provide written notice thereof to another Party, nor shall a failure to provide written notice be considered a waiver of any other remedies available to any Party under this Agreement or otherwise.

13.2 Termination; Effect of Termination

(a) This Agreement may be terminated as provided in Section 10 or by mutual agreement of the Parties, upon such terms and conditions as the Parties may mutually agree to. Such termination shall be effective in accordance with a written agreement by the Parties. Termination under this section shall not constitute a waiver of the rights of any Party to damages or other remedies related to this Agreement, except to the extent that the mutual agreement terminating this Agreement so specifies. The Parties agree and acknowledge that any termination of this Agreement does not affect the validity, continuation or perpetual nature of any Retained Easement.

(b) This Agreement shall terminate with respect to portions of the MBTA Rail Properties (i) at such time as PAR, in its sole discretion, elects to secure and exercise Appropriate Statutory and Regulatory Authority to abandon and/or discontinue PAR Freight Rail Service on such portions of the MBTA Rail Properties, or (ii) in the event that such authority is not required, at such time as PAR, its successors or assigns, in their sole discretion designates in a written notice of termination of this Agreement with respect to such portions of the MBTA Rail Properties, which written notice shall be given to the MBTA at least six (6) months in advance of the date so designated for termination, *provided however*, such portions of the MBTA Rail Properties shall continue to be subject to applicable law.

(c) Expiration or termination of this Agreement for any reason, in whole or in part, shall not relieve or release any Party from any obligation assumed or from any liability which may have arisen or been incurred by any Party under the terms of this Agreement prior to the expiration or termination hereof. The foregoing provision shall apply whether or not it is so expressly stated elsewhere in this Agreement, including without limitation, where a right of termination, in whole or in part, is expressly accorded either or both of the Parties.

(d) Provided, however, that the MBTA shall have no right to terminate PAR's Retained Easement.

SECTION 14 DISPUTE RESOLUTION

14.1 Settlement of Disputes.

Both Parties to this Agreement shall make every reasonable effort to settle any dispute concerning the interpretation, application or enforcement of this Agreement by prompt and diligent discussions and negotiations.

14.2 Informal Consideration by the Parties.

Any dispute that cannot be resolved pursuant to Section 14.1 above within thirty (30) business days after it arises (or such other time as the Parties may agree in writing), may be submitted at the written request of any Party to the MBTA's Director of Railroad Operations and the individual designated by PAR. These individuals shall discuss and attempt to resolve the dispute. In the event that the dispute remains unresolved twenty (20) business days after its submission (or such other time as the Parties may agree), the matter may be referred in writing by any Party to the General Manager of the MBTA and PAR's Vice President of Transportation for consideration and resolution. If the dispute still remains unresolved thirty (30) calendar days after its referral to the General Manager and PAR's Vice President of Transportation under this paragraph, the Parties may jointly agree to submit the matter to meditation under Section 14.3, below, or any Party may commence arbitration in accordance with Section 14.4 below.

14.3 Mediation.

(a) Either the MBTA or PAR may request mediation of any unresolved dispute under this Section 14.3. If a Party elects mediation and any other Party declines to have the dispute resolved by mediation under this Section, or if the Parties undertake mediation and one of the Parties unreasonably delays the expeditious conclusion of same, the aggrieved Party may proceed with other remedies available under this Agreement.

(b) The MBTA and PAR shall jointly select an independent mediator within twenty-one (21) calendar days after the submittal of a dispute under this Section 14.3. The independent mediator shall be properly qualified in the areas of surface transportation finance and the surface transportation industry, and have experience in the analysis of transportation operating and capital costs and revenues.

(c) The mediator shall meet with the Parties within twenty-one (21) days after his or her selection to attempt to mediate and resolve the dispute. If mediation efforts are unsuccessful after sixty (60) calendar days, the mediator shall, after consideration of the Parties' positions and written submissions (if so requested) issue written recommendations for resolution of the dispute. All meetings and proceedings shall be held in Boston, Massachusetts, at a time and location acceptable to both Parties.

(d) During the pendency of such mediation proceedings, the performance by both Parties of this Agreement shall continue in the same manner as

before such controversy arose, unless the mediator shall make a preliminary ruling to the contrary.

(e) Each Party shall share equally the costs and expenses of any mediation conducted pursuant to this Section.

14.4 Arbitration.

It is the desire and intent of the Parties hereto to avoid the expense and delay inherent in litigation; therefore, PAR and the MBTA agree that whenever a Party desires to commence the arbitration process it shall provide written notice thereof to the other Parties and the following provisions shall apply:

(a) Except as is otherwise expressly provided in this Agreement, any dispute (including, without limitation, disputes regarding whether a matter is subject to arbitration under this Agreement) under this Agreement shall be settled exclusively in accordance with the Commercial Arbitration Rules of the American Arbitration Association and judgment upon the award entered by the Arbitrator(s) may be entered in any court having jurisdiction thereof. Arbitration shall be held in Boston, Massachusetts. It is the intent of the Parties hereto that the agreement to arbitrate contained in this Section shall be valid and irrevocable, and shall be specifically enforceable by either of the Parties hereto from and after the date of this Agreement. In interpreting this Agreement and resolving any dispute hereunder, the arbitrator(s) shall apply the laws of the Commonwealth of Massachusetts. In the event of Arbitration, each Party shall pay the compensation, costs, fees and expenses of its own witnesses, exhibits and counsel. The compensation, costs, fees and expenses of the arbitrator(s) and the American Arbitration Association shall be paid equally by the Parties.

(b) The Parties agree that neither the provisions of paragraph 14.4(a) nor Section 14.3 shall be applicable to, nor shall they be used: (i) to alter, amend, change, modify, add to or subtract from any of the provisions of this Agreement, except to the extent mutually agreed to by the MBTA and PAR in the submission of the matter to arbitration or mediation; (ii) to resolve any matter subject to the judgment or discretion of one Party to this Agreement; or (iii) except as is otherwise expressly provided herein, to resolve any matter reserved by this Agreement for the mutual agreement of the Parties.

14.5 Interest.

Where the time period during which interest accrues regarding a matter in dispute is specifically established elsewhere in this Agreement, that time period shall apply for purposes of disputes under this Agreement. For any other dispute under this Agreement, interest shall accrue from the date that payment was due, at the Effective Interest Rate.

SECTION 15 EQUAL EMPLOYMENT OPPORTUNITY**15.1 Fair Employment Practices.**

Each Party agrees that it will comply with all applicable federal, state, and local laws and regulations relating to fair employment practices and non-discrimination against employees or applicants for employment because of race, religion, creed, color, sex, national origin, disability or sexual orientation.

15.2 Subcontracts.

Each Party shall insert provisions similar to those appearing in Section 12.1 above in each subcontract, except subcontracts for standard commercial supplies, raw materials, or construction.

SECTION 16 DISADVANTAGED BUSINESS ENTERPRISES.

The Parties shall comply with all applicable federal laws and regulations relating to Disadvantaged Business Enterprises, including but not limited to regulations issued by the U.S. Department of Transportation (49 C.F.R. Part 23).

SECTION 17 EMPLOYEE WAGES AND BENEFITS

Each Party (or its contractors) shall be solely responsible for the determination of and payment of wages and benefits and other terms and conditions of employment of all such Party's employees; provided, however, that such Party shall comply with any applicable mandatory federal or state prevailing wage rate, safety, or wage/hour laws to the extent that these laws do not conflict with applicable collective bargaining agreements.

SECTION 18 APPLICABILITY

The Parties agree that this Agreement, on and as of the respective Effective Date hereof, shall supersede all previous agreements between the Parties that relate to all or any portion of the PAR Rail Properties and the MBTA Rail Properties described in this Agreement.

SECTION 19 GENERAL PROVISIONS**19.1 Additional Properties**

The Parties may by mutual written agreement signed by each Party add additional segments of railroad and track to the PAR Rail Properties or the MBTA Rail Properties (and designate an effective date with respect thereto), in order to consolidate their trackage rights agreements within this Agreement.

19.2 Ownership of Service Equipment

As used in this Agreement, whenever reference is made to the trains, locomotives, cars or equipment of, or in the account of, one of the Parties hereto such expression means the trains, locomotives, cars or equipment in the possession of or operated by or on behalf of one of the Parties and including such trains, locomotives, cars or equipment which are owned by, leased to, or the responsibility of such Party.

19.3 Compliance with Laws and Operating Rules

(a) PAR and the MBTA shall comply with the provisions of applicable federal, state, and local laws, regulations, and rules respecting the operation, condition, inspection, and safety of the trains, locomotives, cars and equipment it or any affiliate or contractor operates over the PAR Rail Properties or the MBTA Rail Properties. PAR and the MBTA shall each indemnify, protect, defend, and save the other, and its officers, agents, and employees harmless from all fines and penalties imposed under such laws, rules, and regulations by any governmental or regulatory agency, or court having jurisdiction over the PAR Rail Properties or the MBTA Rail Properties, when the imposition of same is related to the failure of such Party to comply with its obligations under this Section. Nothing in this Section shall alter, modify or amend Section 8 of this Agreement.

(b) In its use of the PAR Rail Properties, the MBTA shall comply in all material respects with the operating rules and regulations of PAR, and the movement of the MBTA's trains, locomotives, cars, and equipment over the PAR Rail Properties shall be subject at all times to the orders of transportation officers of PAR.

(c) In its use of the MBTA Rail Properties, PAR shall comply in all material respects with the operating rules and regulations of the MBTA, and the movement of PAR's trains, locomotives, cars, and equipment over the MBTA Rail Properties shall be subject at all times to the orders of transportation officers of the MBTA.

(d) The MBTA shall provide employees, at its sole cost and expense, for the operation of its trains, locomotives, rail cars and rail equipment over the PAR Rail Properties. All of the MBTA's Employees who shall operate trains, locomotives, rail cars and rail equipment over the PAR Rail Properties shall be qualified by PAR for operation thereover. The MBTA shall compensate PAR for any and all Direct Costs incurred by PAR in connection with the qualification of such employees of the MBTA as well as the cost incurred by PAR for furnishing pilots, until such time as such employees of the MBTA are deemed by the appropriate examining officer of PAR to be properly qualified for operation as herein contemplated, *provided* that PAR shall not be required to administer more than three (3) qualifying attempts for any such employee. As used in this section, qualification pertains only to the employee's operation of trains, locomotives, rail cars and rail equipment on the PAR Rail Properties in accordance with PAR's operating rules and practices.

(e) PAR shall provide employees, at its sole cost and expense, for the operation of its trains, locomotives, rail cars and rail equipment over the MBTA Rail Properties. All of PAR's Employees who shall operate trains, locomotives, rail cars and rail equipment over the MBTA Rail Properties shall be qualified by the MBTA for operation thereover. PAR shall compensate the MBTA for any and all Direct Costs incurred by the MBTA in connection with the qualification of such employees of PAR as well as the cost incurred by the MBTA for furnishing pilots, until such time as such employees of PAR are deemed by the appropriate examining officer of the MBTA to be properly qualified for operation as herein contemplated, *provided* that the MBTA shall not be required to administer more than three (3) qualifying attempts for any such employee. As used in this section, qualification pertains only to the employee's operation of trains, locomotives, rail cars and rail equipment on the MBTA Rail Properties in accordance with the MBTA's operating rules and practices.

(f) In the event PAR conducts an investigation or hearing concerning a violation of any operating rule or practice of PAR by any MBTA Employee, except officers, the MBTA shall be notified in advance of any such investigation or hearing and such investigation or hearing may be attended by any official designated by the MBTA and shall be conducted in accordance with the collective bargaining agreements, if any, that pertain to said employee or employees.

(g) In the event the MBTA conducts an investigation or hearing concerning a violation of any operating rule or practice of the MBTA by any PAR Employee, except officers, PAR shall be notified in advance of any such investigation or hearing and such investigation or hearing may be attended by any official designated by PAR and shall be conducted in accordance with the collective bargaining agreements, if any, that pertain to said employee or employees.

(h) PAR shall have the right to exclude from the PAR Rail Properties any MBTA Employee, except officers, whom PAR determines, based on the investigation or hearing described above, to be in violation of PAR's rules, regulations, orders, practices or instructions issued by timetable or otherwise, provided that PAR may exclude any MBTA Employee, except officers, from the PAR Rail Properties prior to such determination for alleged violations of PAR's rules regarding use of intoxicating beverages or drugs, or for alleged insubordination. The MBTA shall release, indemnify, defend and save harmless PAR and its officers, agents and employees from and against any and all claims and expenses arising from such exclusion.

(i) The MBTA shall have the right to exclude from the MBTA Rail Properties any PAR Employee, except officers, whom the MBTA determines, based on the investigation or hearing described above, to be in violation of the MBTA's rules, regulations, orders, practices or instructions issued by timetable or otherwise, provided that the MBTA may exclude any PAR Employee, except officers, from the MBTA Rail Properties prior to such determination for alleged violations of the MBTA's rules regarding use of intoxicating beverages or drugs, or for alleged insubordination. PAR

shall release, indemnify, defend and save harmless the MBTA and its officers, agents and employees from and against any and all claims and expenses arising from such exclusion.

19.4 Disabled Trains/Wreck Clearing.

(a) If by reason of any mechanical failure or any other cause not resulting from an accident or derailment, a train or locomotive of the MBTA becomes stalled and unable to proceed under its own power, or fails to maintain the speed required by PAR on the PAR Rail Properties, or if in emergencies crippled or otherwise defective cars are separated from the MBTA's trains on the PAR Rail Properties, PAR shall have the option of allowing the MBTA to furnish motive power or such other assistance as may be necessary to haul, help or push such trains, locomotives or cars, or to properly move the disabled equipment off the PAR Rail Properties. The MBTA shall reimburse PAR for Direct Costs incurred in rendering any such assistance.

(b) If it becomes necessary to make repairs to or adjust or transfer the lading of such crippled or defective cars in order to move them off the PAR Rail Properties, such work shall, at the option of PAR, be done by the MBTA or PAR or by the Parties' respective contractors. The MBTA shall reimburse PAR for Direct Costs incurred in rendering any such assistance.

(c) If by reason of any mechanical failure or any other cause not resulting from an accident or derailment, a train or locomotive of PAR becomes stalled and unable to proceed under its own power, or fails to maintain the speed required by the MBTA on the MBTA Rail Properties, or if in emergencies crippled or otherwise defective cars are separated from PAR's trains on the MBTA Rail Properties, the MBTA shall have the option of allowing PAR to furnish motive power or such other assistance as may be necessary to haul, help or push such trains, locomotives or cars, or to properly move the disabled equipment off the MBTA Rail Properties. PAR shall reimburse the MBTA for Direct Costs incurred in rendering any such assistance.

(d) If it becomes necessary to make repairs to or adjust or transfer the lading of such crippled or defective cars in order to move them off the MBTA Rail Properties, such work shall, at the option of the MBTA, be done by PAR or the MBTA or by the Parties' respective contractors. PAR shall reimburse the MBTA for Direct Costs incurred in rendering any such assistance.

(e) PAR shall have full responsibility for rerailling wrecking service or wrecking train service with respect to the PAR Rail Properties, including without limitation the removal of damaged equipment, repair and restoration of road bed, track, signals, communication systems and all other right of way structures and facilities affected by such wrecks ("Wreck Clearing"). The liability, cost and expense of the foregoing, including, without limitation, loss of, damage to or destruction of any property whatsoever and injury to or death of any person or persons whomsoever resulting therefrom, shall be allocated and apportioned in accordance with the provisions of Section 11 hereof. All trains, locomotives, rail cars, and rail equipment and salvage from

the same so picked up and removed which is owned by the MBTA shall be promptly delivered to it. PAR shall perform its services under this Section in an expeditious manner in order to restore rail service on the line.

(f) The MBTA shall have full responsibility for rerailling wrecking service or wrecking train service with respect to the MBTA Rail Properties, including without limitation the removal of damaged equipment, repair and restoration of road bed, track, signals, communication systems and all other right of way structures and facilities affected by such wrecks ("Wreck Clearing"). The liability, cost and expense of the foregoing, including, without limitation, loss of, damage to or destruction of any property whatsoever and injury to or death of any person or persons whomsoever resulting therefrom, shall be allocated and apportioned in accordance with the provisions of Section 11 hereof. All trains, locomotives, rail cars, and rail equipment and salvage from the same so picked up and removed which is owned by PAR shall be promptly delivered to it. The MBTA shall perform its services under this Section in an expeditious manner in order to restore rail service on the line.

19.5 Operating Duties in Regard to Safety.

Each Party shall take all reasonable safety precautions and shall provide all reasonable protection to prevent damage, injury, death, or loss to: all employees and passengers of the other Parties and all tracks, bridges, and other equipment related to the PAR Rail Properties or the MBTA Rail Properties. Unless otherwise provided by law, each Party will be responsible to give all notices and comply with all applicable laws, rules, regulations and lawful orders of any public agency in connection with its operations under this agreement bearing on the safety of persons or property or their protection from damage, injury, death or loss. Without limitation, this obligation shall include observance of any and all applicable safety rules and regulations administered by the Federal Railroad Administration or the Massachusetts Department of Public Utilities including, for example: the FRA's regulations at 49 CFR Subtitle B, Chapter II; all applicable regulations regarding the transport of Hazardous Materials or wastes prescribed by the U.S. Department of Transportation including 49 CFR Parts 171 et seq., and prescribed by the U.S. Environmental Protection Agency, including 40 CFR Part 263; and all safety rules and other operating procedures of general applicability and future effect issued by the MBTA and forwarded in writing to PAR. Each Party shall be responsible for demonstrating compliance with the above. Nothing in this Section shall alter, modify or amend Section 8 of this Agreement.

SECTION 20 ASSIGNMENT

(a) Neither Party may assign to any Person, in whole or in part, any of its rights, interests or obligations under this Agreement without the prior written consent of the other Party; provided, however, that the MBTA may assign its rights under this Agreement, in whole or in part, to any successor agency or authority, or to the Massachusetts Department of Transportation ("MassDOT") or any successor agency or authority to MassDOT.

(b) Any permitted assignment of this Agreement, in whole or in part, by either Party, its successors or assigns, shall release and discharge the assigning Party: (i) from the performance of its obligations and covenants under this Agreement, or with respect to the part hereof so assigned, as the case may be, from and after the date of such assignment, and (ii) from any liability, cost and expense arising out of or connected with this Agreement, or with respect to the part thereof so assigned, as the case may be, from and after the date of such assignment.

(c) Assignment of this Agreement, in whole or in part, shall not relieve or release any Party from any obligation assumed or from any liability which may have arisen or been incurred by such Party under the terms of this Agreement prior to the assignment hereof. The foregoing provision shall apply whether or not it is so expressly stated elsewhere in this Agreement where a right of assignment, in whole or in part, is expressly accorded any Party.

SECTION 21 FORCE MAJEURE

Each Party will be excused from performance of any of its obligations to the other under this Agreement, where such non-performance is occasioned by any event beyond the non-performing Party's control which shall include, without limitation, any order, rule, or regulation of any Federal, State, or local government body, agent, or instrumentality; work stoppage; natural disaster; terrorist act or threatened act of terrorism; or civil disorder; provided, however, that the Party excused hereunder shall use all reasonable efforts to minimize its non-performance and to overcome, remedy, or remove such event in the shortest practical time.

SECTION 22 MISCELLANEOUS.

(a) This Agreement, and the transactions to which it relates, will be governed by and construed and enforced in accordance with the law of the Commonwealth of Massachusetts. Any claim or legal action by one Party against the other shall be commenced and maintained in any state or federal court located in Massachusetts and both Parties hereby submit to the jurisdiction and venue of any such court.

(b) The MBTA acknowledges that the construction on the PAR Freight Rail Properties of Infrastructure Improvements benefitting the MBTA may result in the imposition of tax liability for PAR. The MBTA agrees that it will reimburse PAR for the actual costs of such liability, so long as (i) PAR has exhausted all available remedies in contesting such imposition and (ii) PAR provides such evidence of such costs as may be reasonably requested by the MBTA. The parties agree to cooperate in the use all reasonable means to minimize or avoid any such tax liability.

(c) This Agreement, including the Exhibits hereto, represents the entire agreement between the Parties hereto with respect to the PAR Rail Properties and the MBTA Rail Properties from and after the Effective Date, and this Agreement

supersedes any and all prior discussions, proposals and communications between the MBTA and PAR with respect to the PAR Rail Properties and the MBTA Rail Properties.

(d) All notices pursuant to this Agreement shall be in writing and shall be deemed effective: (i) on the date given if delivered by hand or transmitted by facsimile on a weekday, or on the next succeeding weekday if not given on a weekday, (ii) one weekday after delivery to a reputable overnight courier service, and (iii) five days after having been deposited with the U.S. Postal Service, postage prepaid.

Notices to the MBTA shall be addressed to:

Director of Railroad Operations
Massachusetts Bay Transportation Authority
45 High Street, 9th Floor
Boston, MA 02110

Notices to PAR shall be addressed to:

Vice President of Transportation
Pan Am Railways
Iron Horse Park
North Billerica, MA 01862

with a copy to:

Law Department
Pan Am Railways
Iron Horse Park
North Billerica, MA 01862

(e) No failure on the part of any Party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies of the Parties provided herein are cumulative and not exclusive of any remedies provided for by law.

(f) The indemnification obligations of PAR and the MBTA hereunder (and all other obligations) that arise but which are not satisfied during the Term of this Agreement shall survive the termination of this Agreement.

(g) The section headings appearing herein are intended solely for convenience of reference and shall not be construed as affecting the interpretation of any provision hereof.

(h) This Agreement shall be binding upon, and inure to the benefit of the respective successors and assigns of the Parties.

(i) Nothing in this Agreement shall be deemed to create any right in any Person not a party hereto other than permitted successors and assigns of the Parties, and this Agreement shall not be construed in any respect to be a contract in whole or in part for the benefit of a third party except as aforesaid.

(j) The Parties represent and warrant to each other that, except with respect to a challenge by any union representing any the MBTA Employees or PAR Employees, (i) the Parties have the power and authority to enter into this Agreement and to carry out their respective obligations hereunder; (ii) the Parties have taken all legal action necessary to authorize them to enter into and perform their respective obligations hereunder; (iii) entering into and performing this Agreement does not violate any statute, rule, regulation, order, writ, injunction, or decree of any court, administrative agency or governmental body, or violate any contract or agreement by which any Party hereto is bound; (iv) there is no known litigation or proceeding pending or threatened against a Party, or any other action, which could materially or adversely affect the performance of this Agreement; and (v) the Parties have obtained all approvals as may be required to permit their respective performance of the obligations of this Agreement. Except as expressly provided herein, the Parties make no representations or warranties and waive no rights or remedies.

(k) No recourse shall be had by any Party for any claim against any officer, director, stockholder, employee or agent of any other Party alleging personal liability on the part of such Person with respect to performance of the MBTA's or PAR's obligations under this Agreement.

(l) The Parties shall collectively maintain appropriate operating and accounting records which record the locomotives, cars, weight and mileage of same moved by each Party over property owned by the other Party. Each Party shall have the right, upon reasonable notice, to inspect, examine and audit during normal business hours all operating and accounting records and supporting documents of the other Party including, without limitation, dispatching records, and all other books and records that relate to the performance of this Agreement. Nothing in this Agreement shall be construed as obligating either Party to retain books or records beyond the period specified in regulations of the STB, of the former Interstate Commerce Commission or of the Federal Railroad Administration.

(m) Any time limits specified under a provision of this Agreement may be suspended by mutual written agreement of the Parties.

(n) During the pendency of any dispute between the Parties, the business and the operations to be conducted under this Agreement, to the extent that they are the subject of any such dispute, shall continue to be transacted and used in the manner and form existing prior to the arising of any such controversy.

(o) In the event of any conflict between the text of this Agreement and that of any Exhibit hereto, the text of this Agreement shall control except to the extent that this Agreement makes specific reference to a provision of any Exhibit as defining the obligations of a Party hereunder.

(p) In the event that any provision of this Agreement is found to be invalid or unenforceable in any respect, the remaining provisions shall nevertheless be binding with the same effect as if the invalid or unenforceable provision was originally deleted.

(q) This Agreement and the Exhibits hereto and thereto may be amended from time to time during the Term of this Agreement. The MBTA or PAR may request in writing such amendments or modifications. However, no such amendments or modification shall be effective unless evidenced by a written amendment to this Agreement executed by duly authorized representatives of both Parties hereto.

(r) This Agreement shall in no way be considered as establishing either a joint facility or a joint enterprise between the MBTA and PAR.

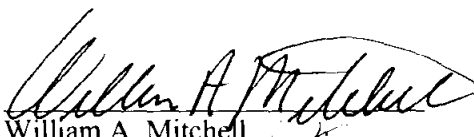
(s) In the performance of work under this Agreement the Parties shall be deemed to be independent contractors and no Party shall be deemed to be an agent of any other Party. Notwithstanding the foregoing, for purposes of Section 8 no Party shall be deemed to be a "contractor" of any other Party.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date above first written, in duplicate, each of which shall be considered an original.

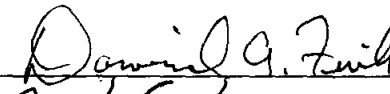
APPROVAL AS TO FORM

MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY

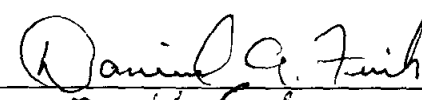
By: 
William A. Mitchell
General Counsel
Massachusetts Bay
Transportation Authority

By: 
Richard A. Davey
General Manager

SPRINGFIELD TERMINAL RAILWAY
COMPANY

By: 
Name: David Fink
Title: CEO

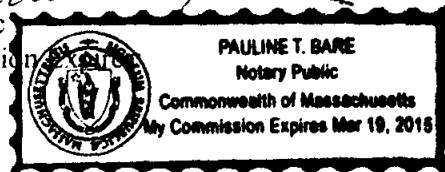
BOSTON AND MAINE
CORPORATION

By: 
Name: David Fink
Title: CEO

COMMONWEALTH OF MASSACHUSETTS, COUNTY OF Suffolk, SS.:

On this 26 day of January, 2011, personally appeared before me the above-named Richard A. Davey, an authorized signatory of the Massachusetts Bay Transportation Authority, proved to me through satisfactory evidence of identification, which was Personally Known, to be the person whose name is signed on the preceding instrument and acknowledged that he/she signed it voluntarily for its stated purpose as an authorized signatory of such entity and as the free act and deed of said entity.

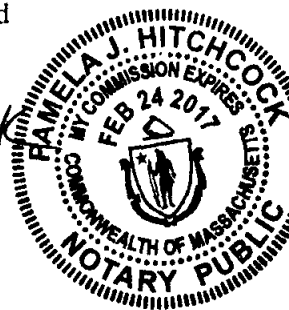
Name: Pauline T. Bare
Notary Public
My Commission Expires



COMMONWEALTH OF MASSACHUSETTS, COUNTY OF Norfolk, SS.:

On this 10th day of January, 2011, personally appeared before me the above-named David Fink, an authorized signatory of Springfield Terminal Railway Company, proved to me through satisfactory evidence of identification, which was Drivers License, to be the person whose name is signed on the preceding instrument and acknowledged that he/she signed it voluntarily for its stated purpose as an authorized signatory of such entity and as the free act and deed of said entity.

Name: Pamela J. Hitchcock
Notary Public



COMMONWEALTH OF MASSACHUSETTS, COUNTY OF Norfolk SS.:

On this 10th day of January, 2011, personally appeared before me the above-named David Fink, an authorized signatory of Boston and Maine Corporation, proved to me through satisfactory evidence of identification, which was Drivers License, to be the person whose name is signed on the preceding instrument and acknowledged that he/she signed it voluntarily for its stated purpose as an authorized signatory of such entity and as the free act and deed of said entity.

Name: Pamela J. Hitchcock
Notary Public

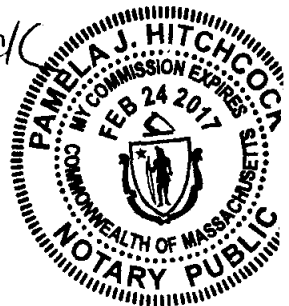
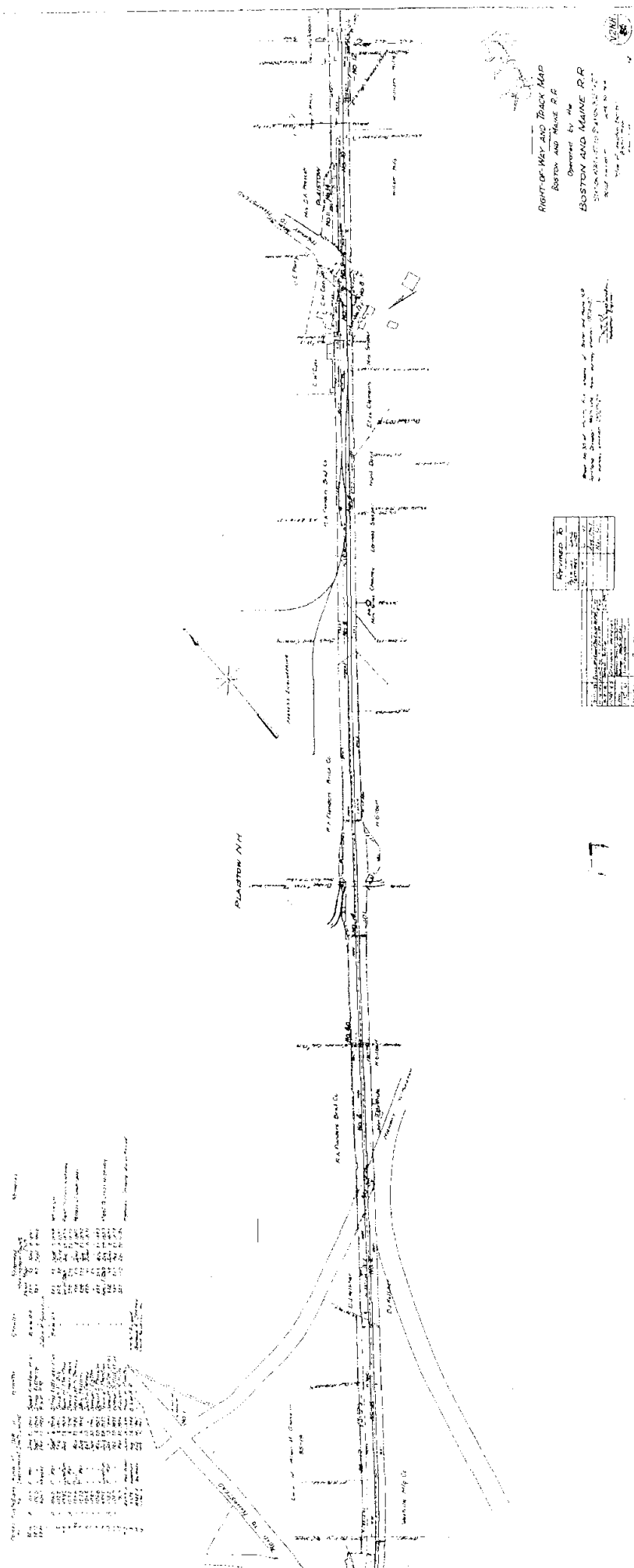


EXHIBIT A

RAIL PROPERTY	FROM	TO	CATEGORY OF RAIL PROPERTY (SEE SECTION 2)
1. <u>Plaistow Station (Layover) Service</u>	The MBTA owned Western Route Main line property at the Massachusetts/New Hampshire Border at approximate mileage MBTA- 36.41- PAR- 274.65 V.S. 2 - Map 35 - Eng. Sta. 1821+67	A point east of the CPF- 273 interlocking in Plaistow New Hampshire at Freight Main Line approximate mileage PAR-MP-272.00 (MBTA- MP-B39) VS.2 – Map 37 – Eng. Sta. 2060+11	Level 1 Rail Properties
2. <u>Lowell Branch Service</u>	The MBTA owned Lowell Junction (CPF-LJ-19.57) on the MBTA Western Route Main Line (WRML) via both the east (MP19.57) and west (MP19.31) legs of the Lowell Junction Wye V.S. 9 – Map 1 – Eng. Sta. 0+0	The MBTA owned property at CPF-BY (MBTA-24.66 – PAR- 298.50) “Bleachery” on the MBTA’s New Hampshire Main line at approximate mileage 24.68 V.S. 9 - Map 8a – Eng. Sta. 19+74.2	Level 1 Rail Properties
3. <u>Stoney Brook Branch</u>	The MBTA’s New Hampshire Main Line property at North Chelmsford via both the south leg of the wye (CPF- NC) approximate mileage MBTA 28.55 PAR 302.55 and via the north leg CPN- 1- MBTA 28.91 PAR 0.91 (Northern ML mileage) V.S. 16 – Map 14-Eng. Sta. 696+16	The Willows Interlocking (CPF-WL) on the MBTA’s Fitchburg Main line at approximate mileage MBTA-33.72 PAS-313.77 in Ayer. V.S. 16-Map-3-Eng. Sta. 128+00	Level 1 Rail Properties

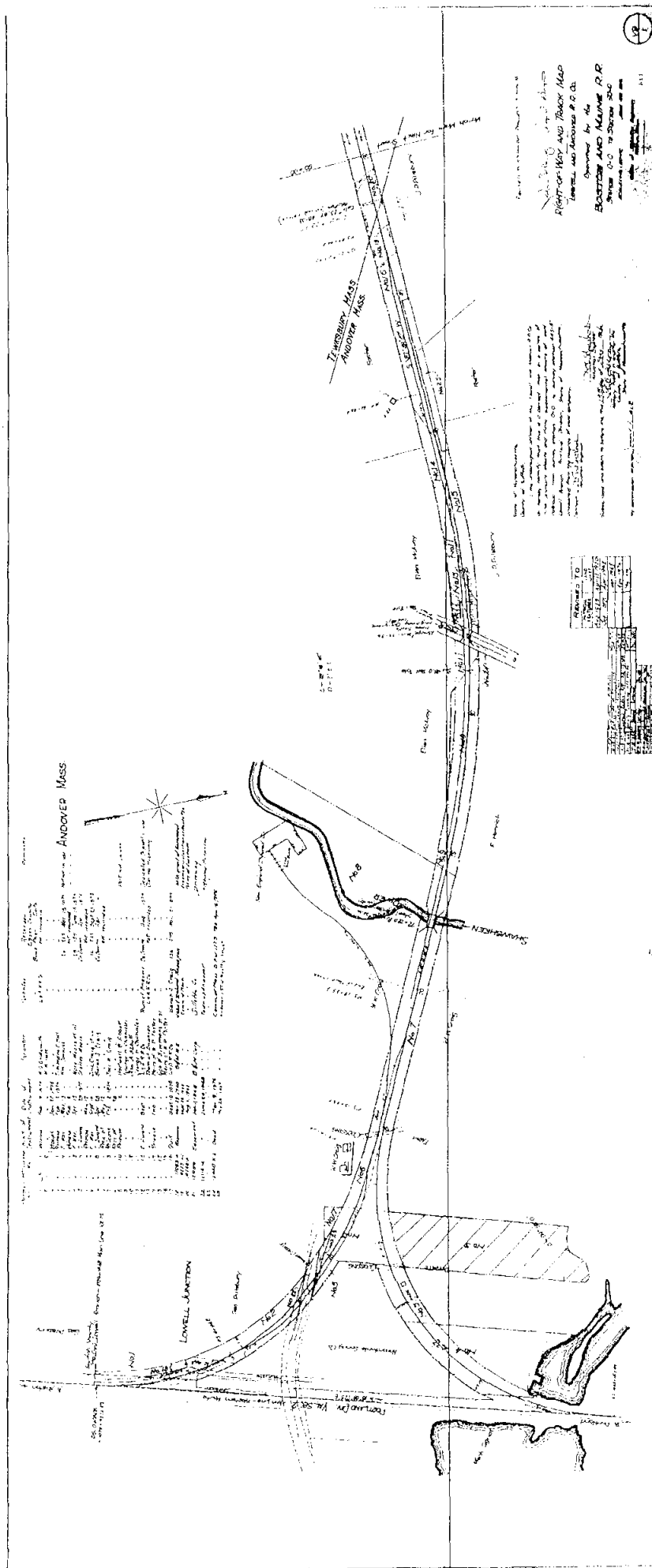
RAIL PROPERTY	FROM	TO	CATEGORY OF RAIL PROPERTY (SEE SECTION 2)
4. <u>Worcester Main Line Service</u>	A location known as Harvard that represents the Pan Am Southern / Pan Am Railways division point at approximate WN&P mileage 25.70 V.S. 6 -Map 26-Eng. Sta.1341+50	A railroad station location now known as BARBER at approximate mileage 2.92 and further any Pan Am rights that may exist into Worcester Union Station approximate mileage 0.00 V.S. 6 – Map 1	PAR Freight Rail Properties

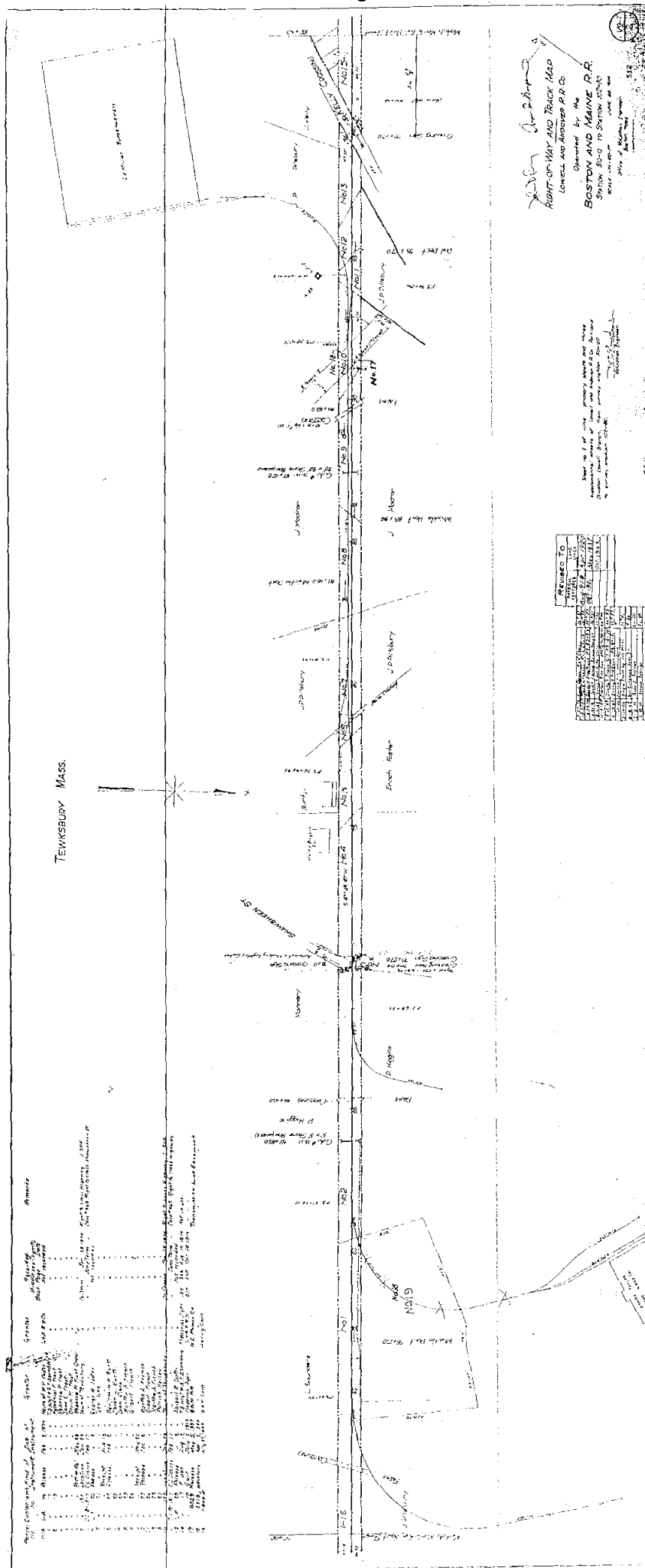


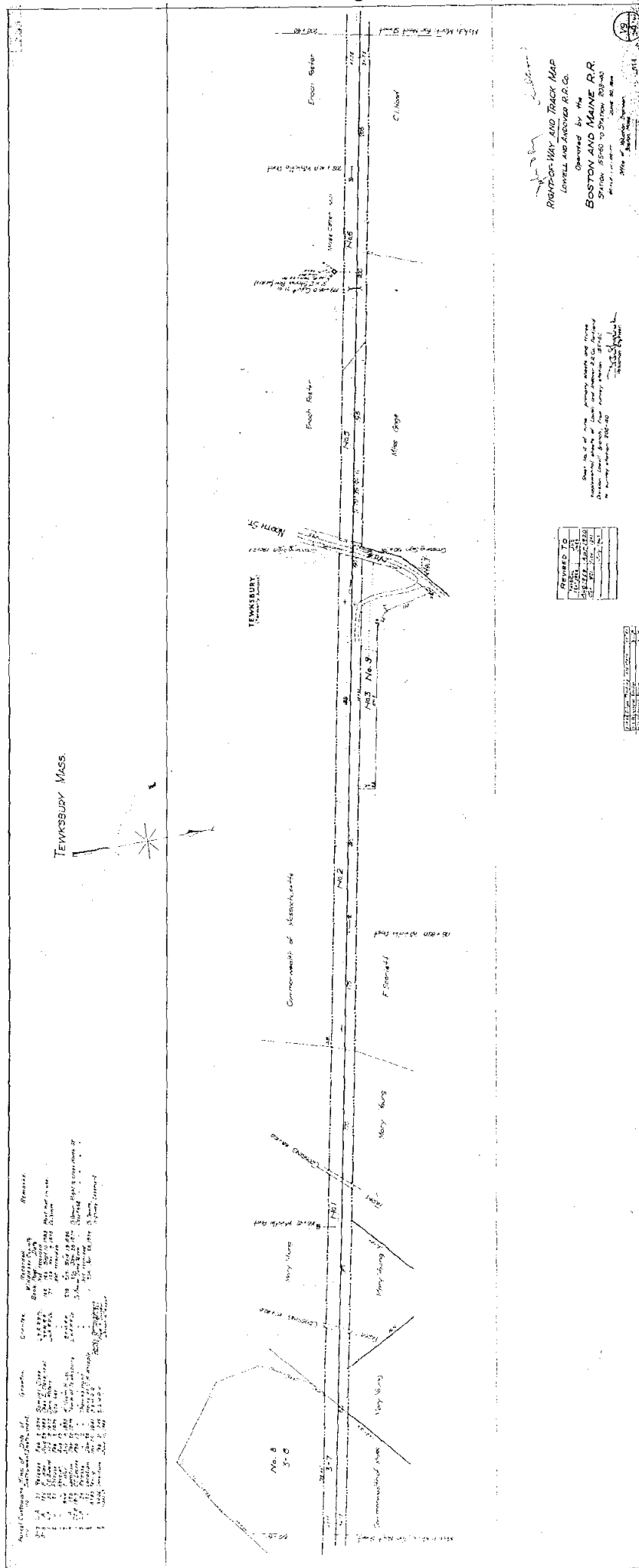
RIGHT-OF-WAY AND TRACK MAP
BOSTON AND MAINE R.R.
OWNED BY THE
BOSTON AND MAINE R.R.
STATIONED AT PLANTON, N.H.
MADE BY THE
MAINE R.R. CO.

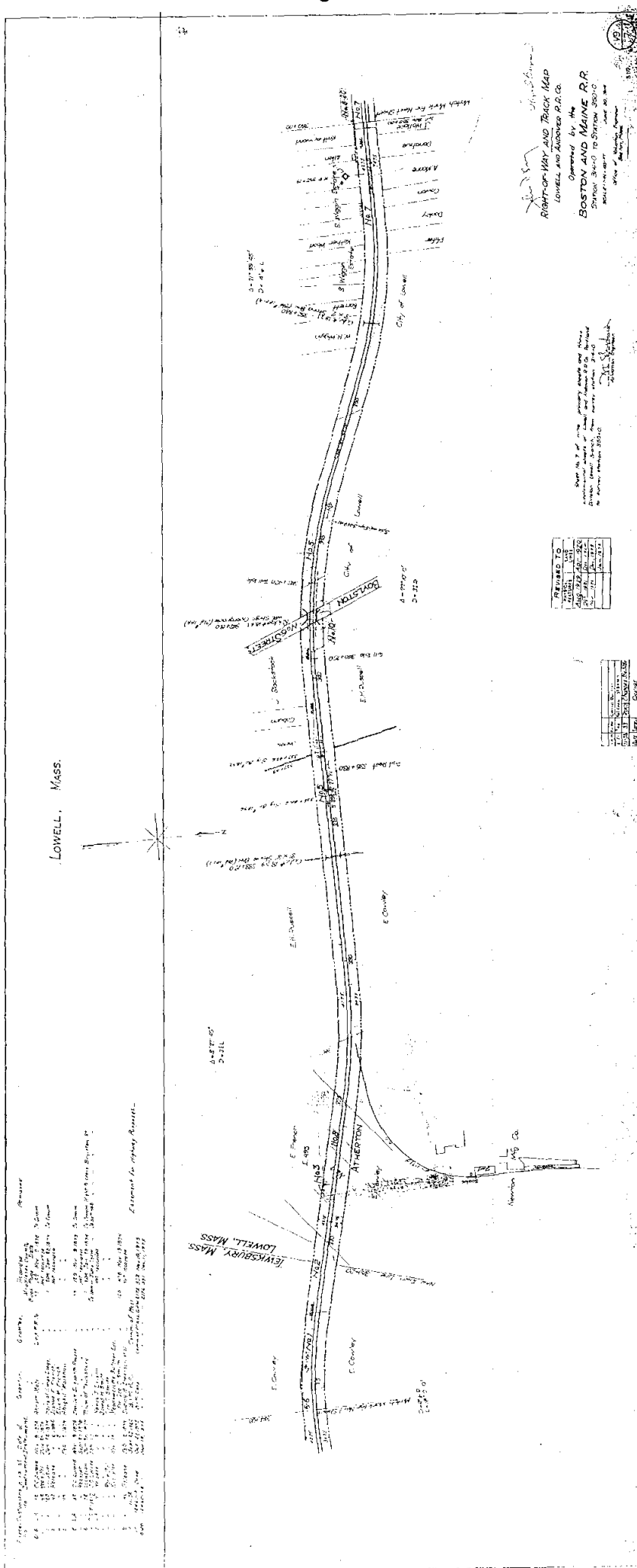
Approved by	
Checked by	
Dated	

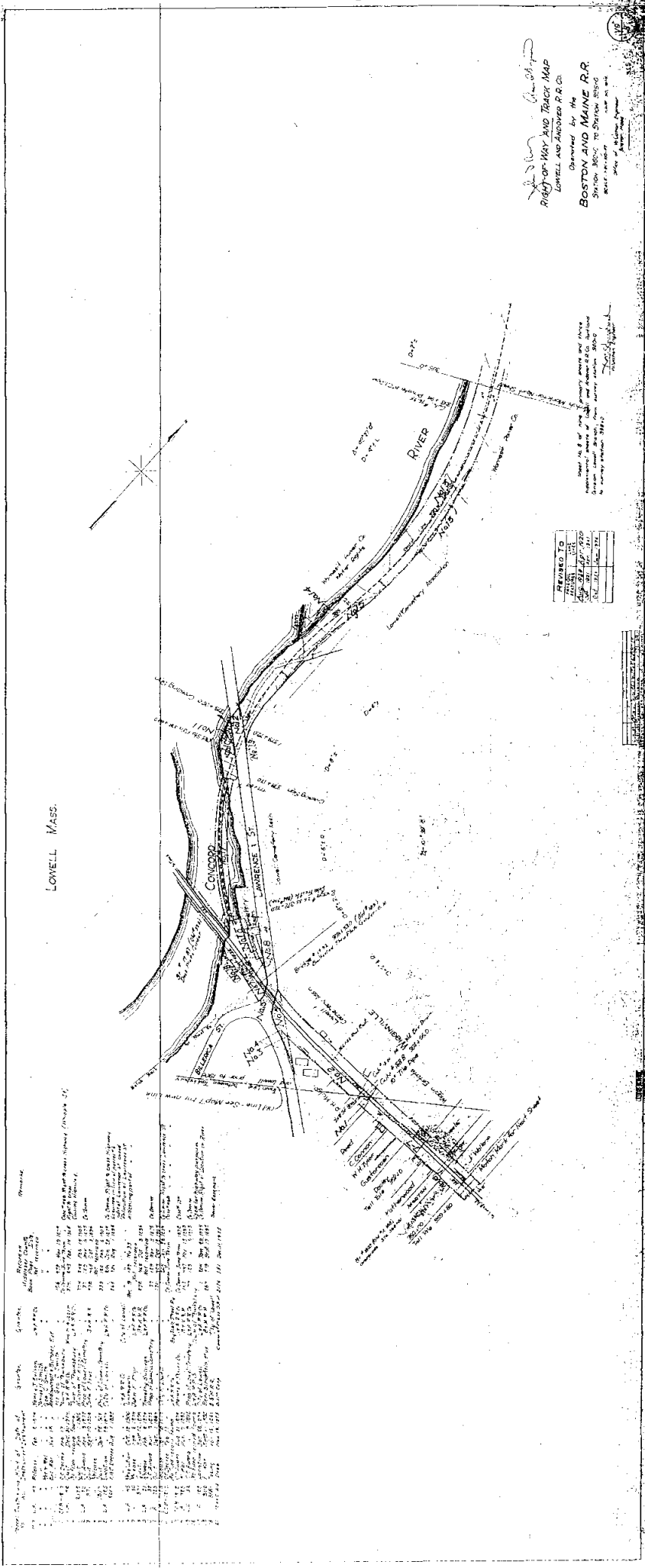
Drawn by	
Checked by	
Dated	







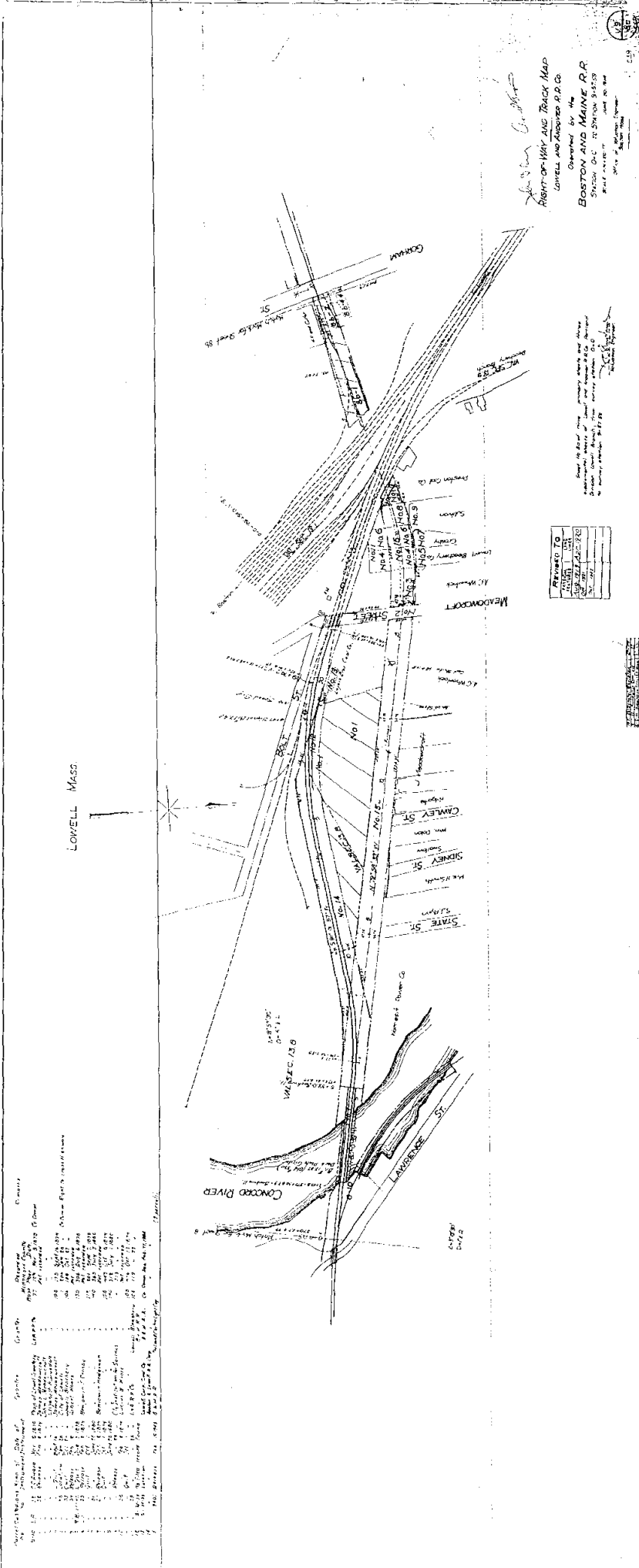




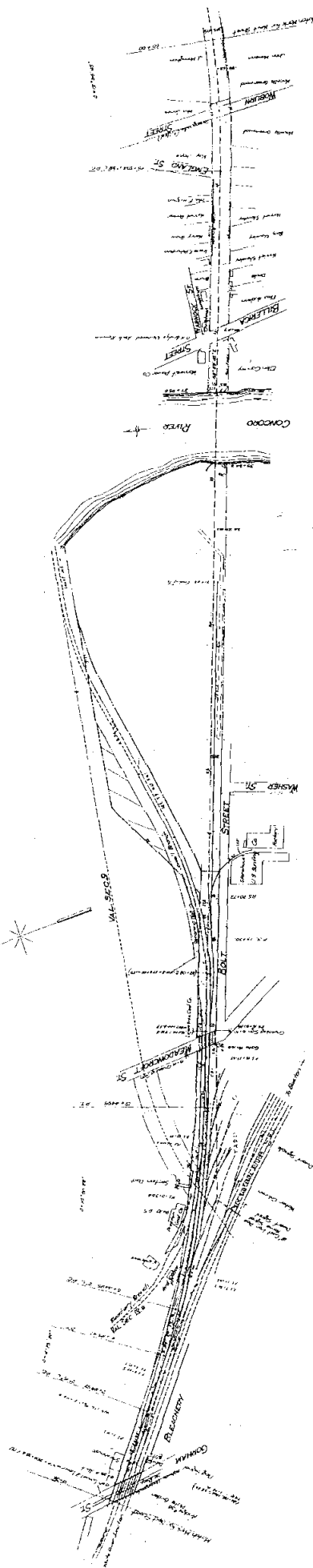
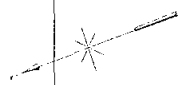
RIGHT-OF-WAY AND TRACK MAP
LOWELL AND ANDOVER R.R. CO.
BOSTON AND MAINE R.R.
MAINE R.R. CO.
MAINE R.R. CO.
MAINE R.R. CO.

REMARKS TO	
FILE NO.	
DATE	
BY	
FOR	

DATE	
BY	
FOR	



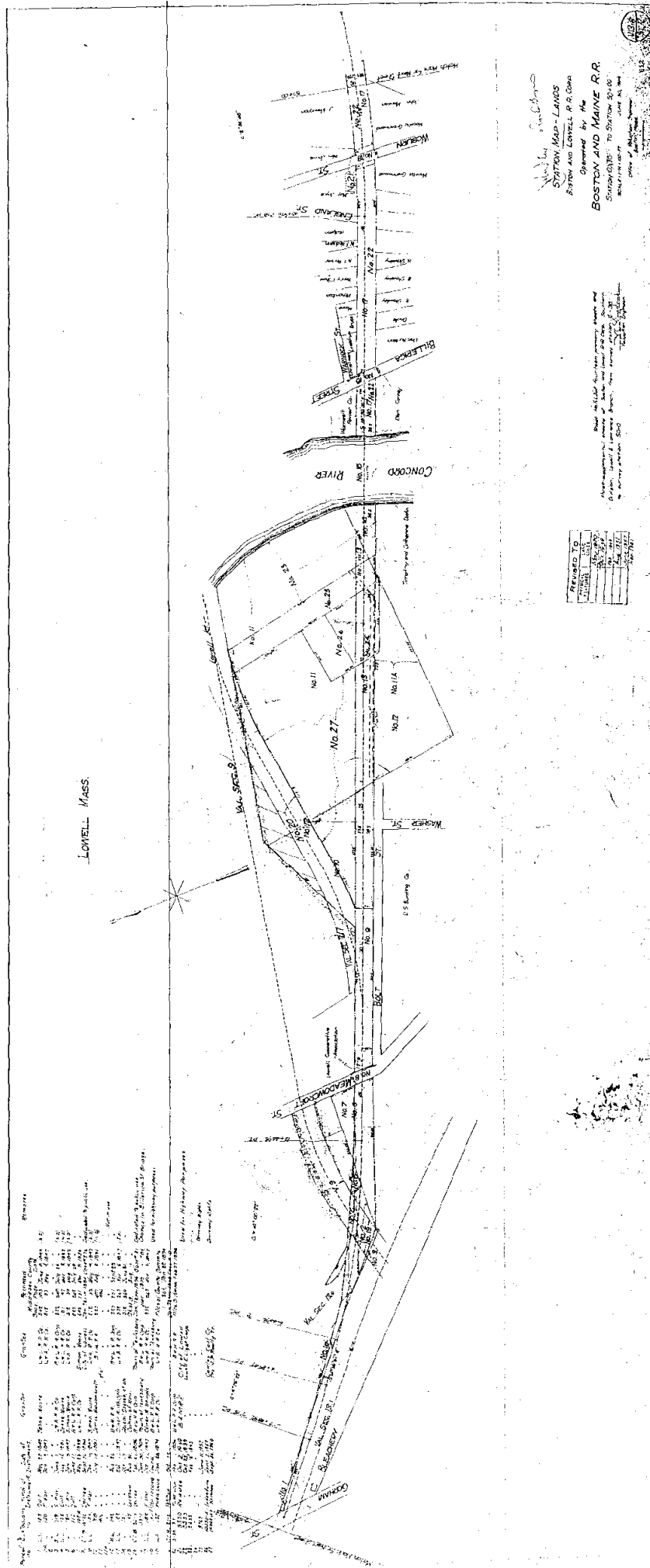
LOWELL, MASS.

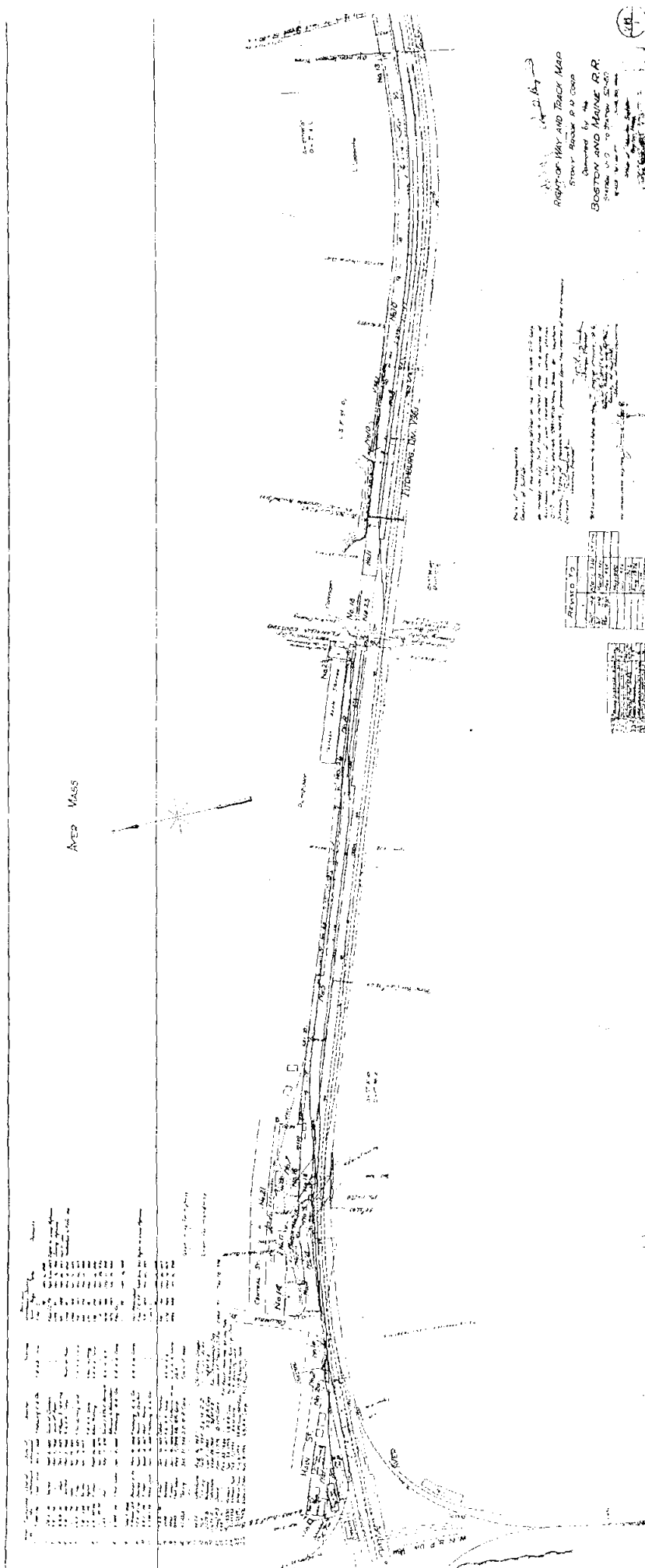


Copyright 1907
By the
BOSTON AND LOWELL R.R. CO.
BOSTON AND LOWELL R.R.
BOSTON, MASS.
MADE IN U.S.A.

REPRODUCED FROM
THE
ORIGINAL
MAP
MADE
IN
1907
BY
THE
BOSTON
AND
LOWELL
R.R. CO.

MADE IN U.S.A.
BOSTON AND LOWELL R.R. CO.
BOSTON, MASS.



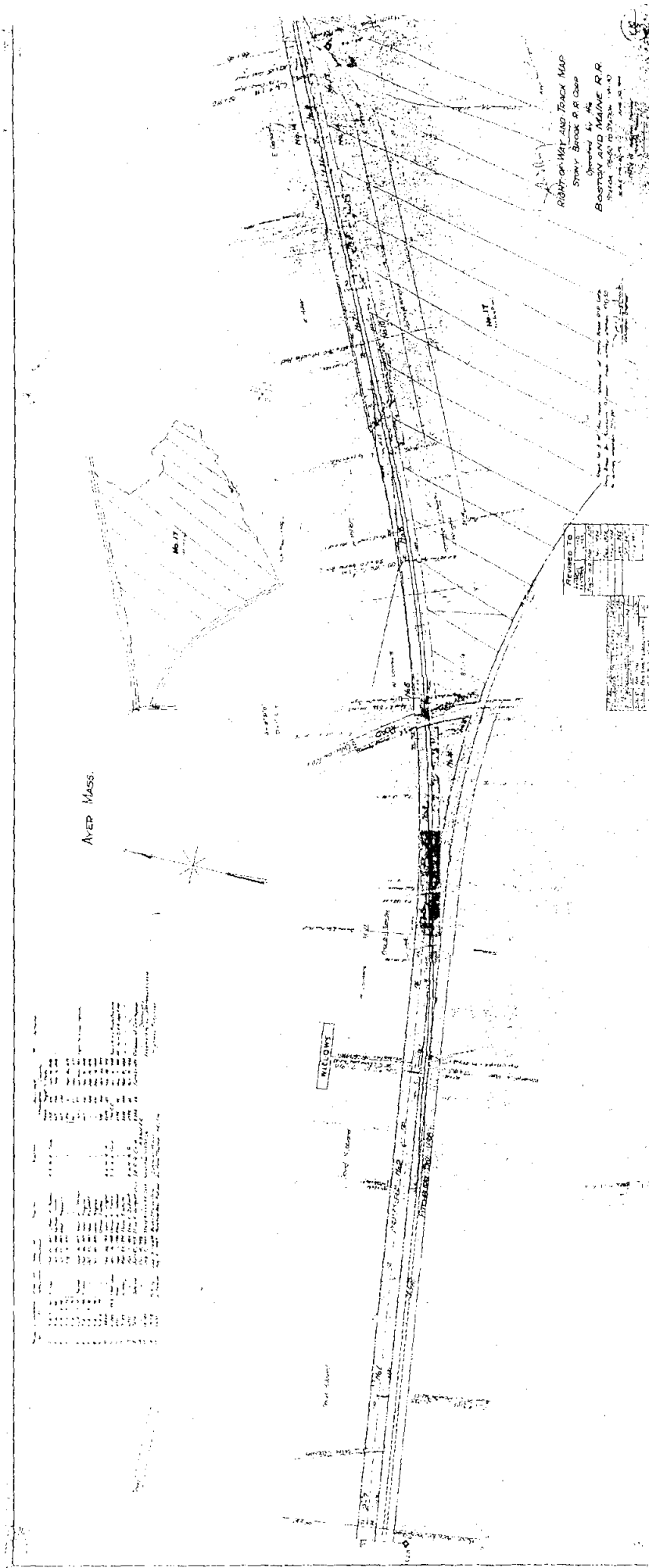


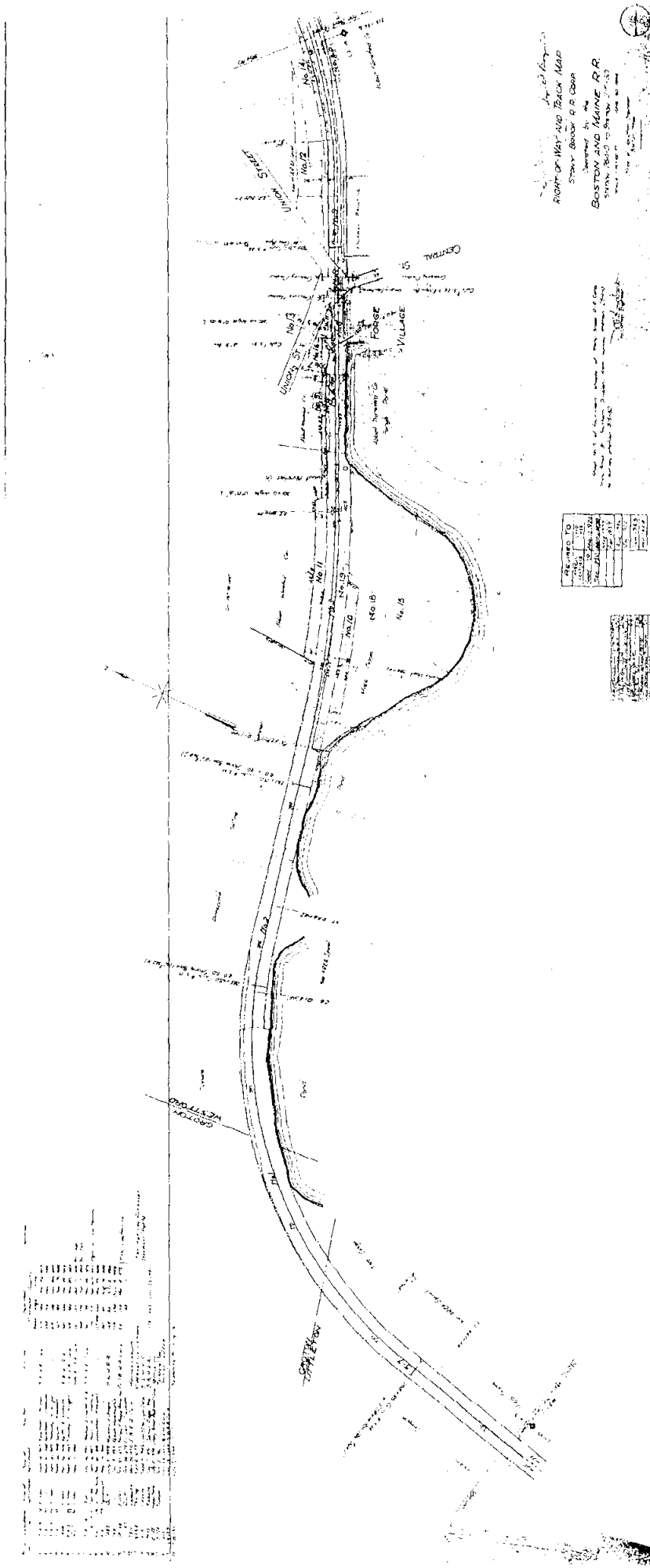
RIGHT-OF-WAY AND TRACK MAP
 STATION 8000
 BOSTON AND MAINE R.R.
 DRAWN BY
 10

REVISIONS
 1. 10/1/10
 2. 10/1/10
 3. 10/1/10
 4. 10/1/10
 5. 10/1/10
 6. 10/1/10
 7. 10/1/10
 8. 10/1/10
 9. 10/1/10
 10. 10/1/10

NO.	DATE	BY	REVISION
1	10/1/10		
2	10/1/10		
3	10/1/10		
4	10/1/10		
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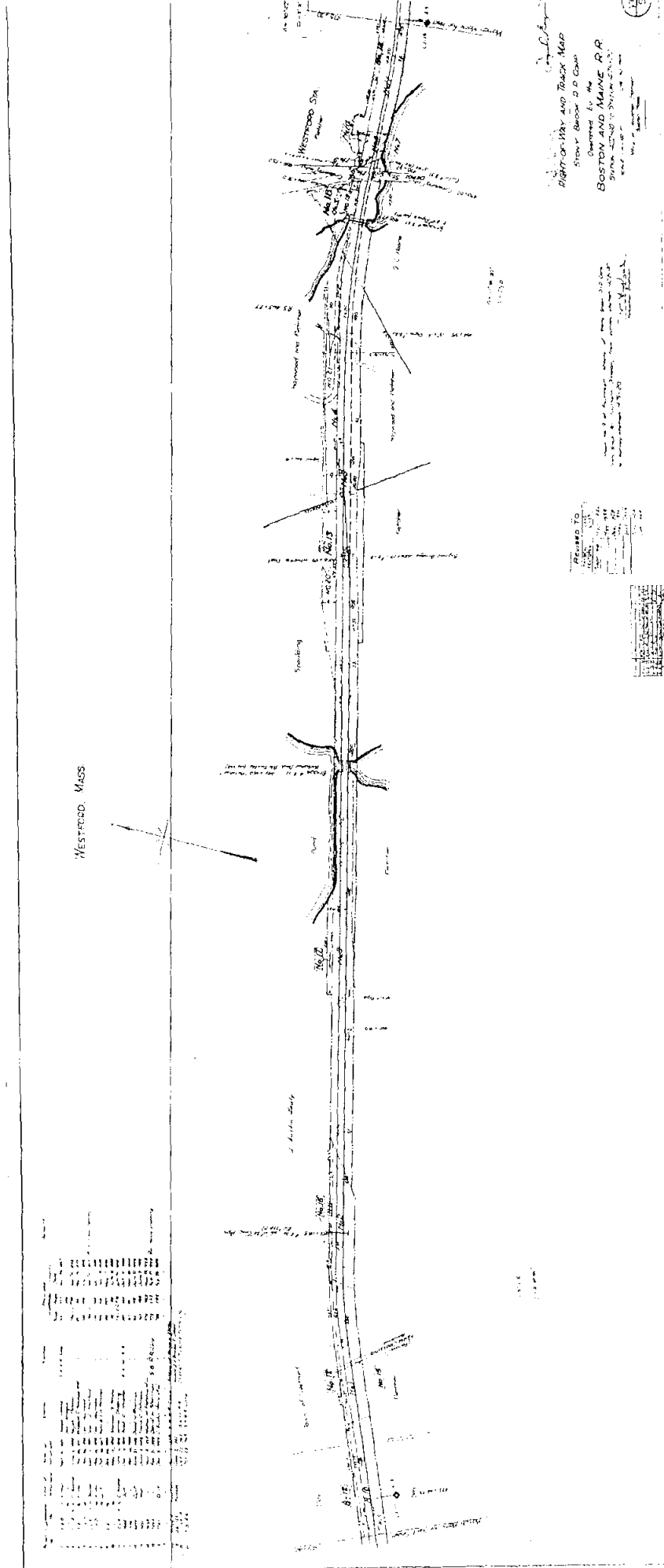
10





RECORDED TO	DATE
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1901	10/10/01
1902	10/10/02
1903	10/10/03
1904	10/10/04
1905	10/10/05
1906	10/10/06
1907	10/10/07
1908	10/10/08
1909	10/10/09
1910	10/10/10

RECORDED TO	DATE
1911	10/10/11
1912	10/10/12
1913	10/10/13
1914	10/10/14
1915	10/10/15
1916	10/10/16
1917	10/10/17
1918	10/10/18
1919	10/10/19
1920	10/10/20

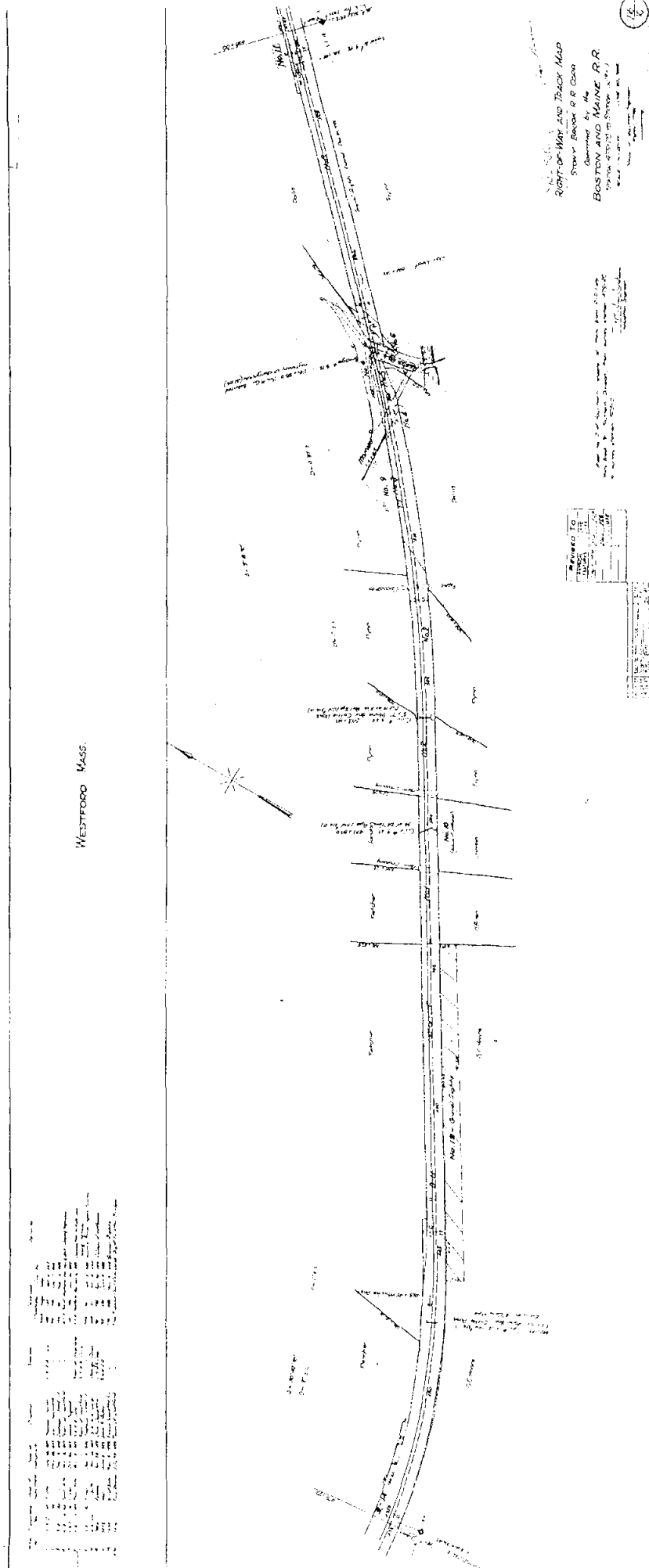


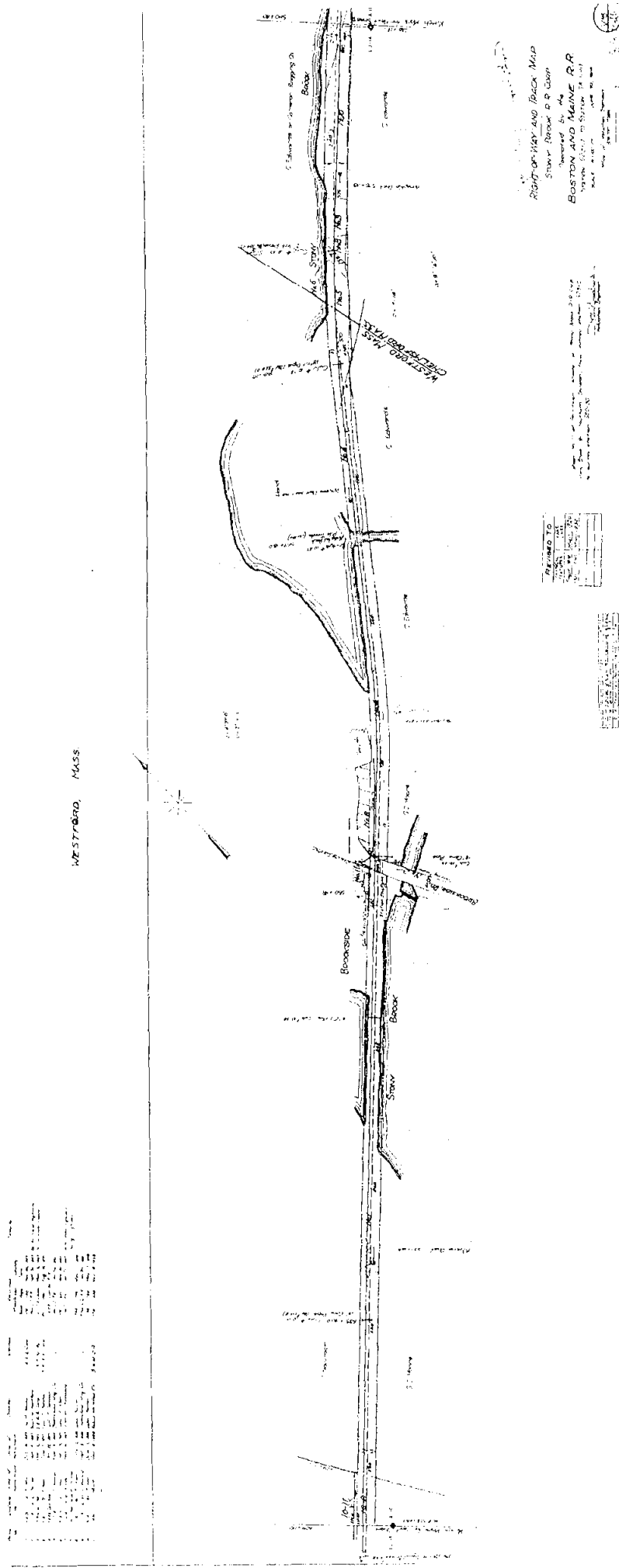
Right-of-Way and Track Map
Shawmut Beach, D. D. Conn.
Copyright 1900 by
BOSTON AND MAINE R.R.
SOUTH BOSTON TO SHAWMUT BEACH
and other
lines of the
B. & M. R.R.

RECEIVED TO

DATE	FILE
1900	100
1901	101
1902	102
1903	103
1904	104
1905	105
1906	106
1907	107
1908	108
1909	109
1910	110

1911	111
1912	112
1913	113
1914	114
1915	115
1916	116
1917	117
1918	118
1919	119
1920	120

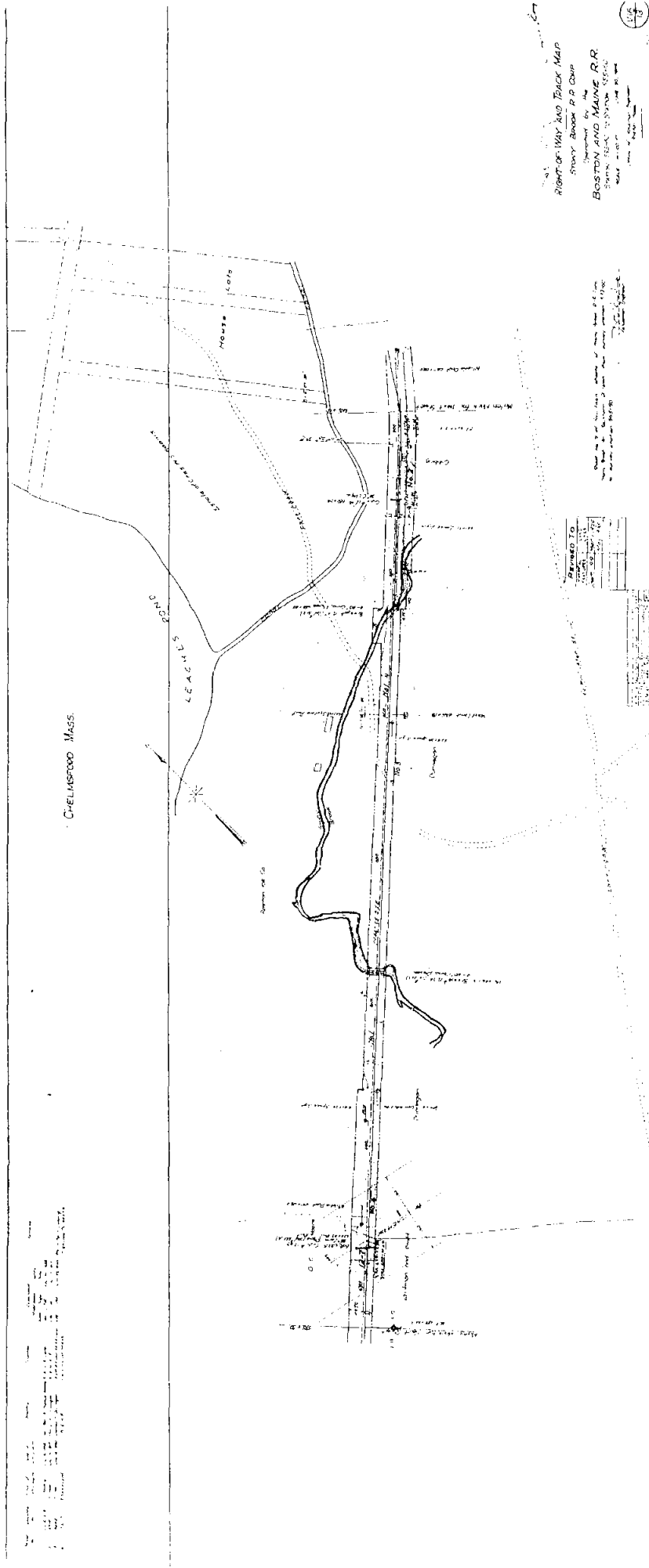




RIGHT-OF-WAY AND BACK MAP
 SHOWING BOUNDARY OF
 BOSTON AND MAINE R.R.
 DRAWN BY THE
 MASS. R.R. CO.
 1887

RETURNED TO

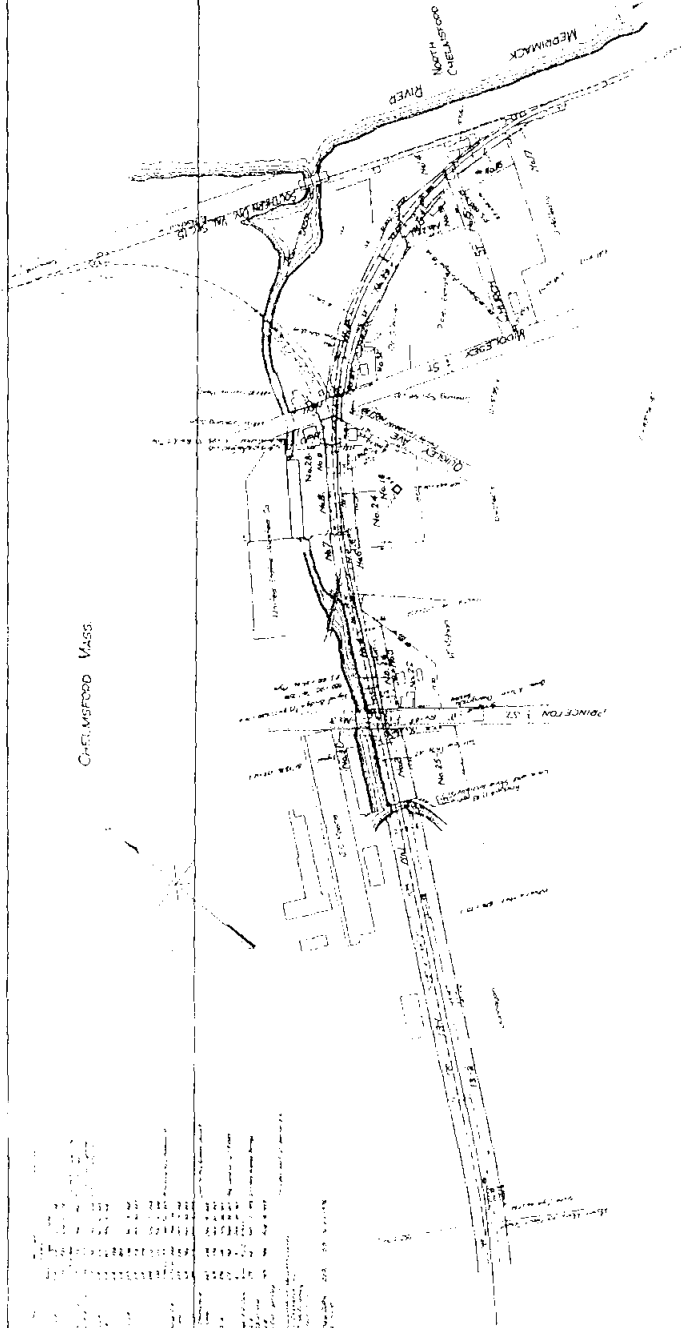
NAME	DATE

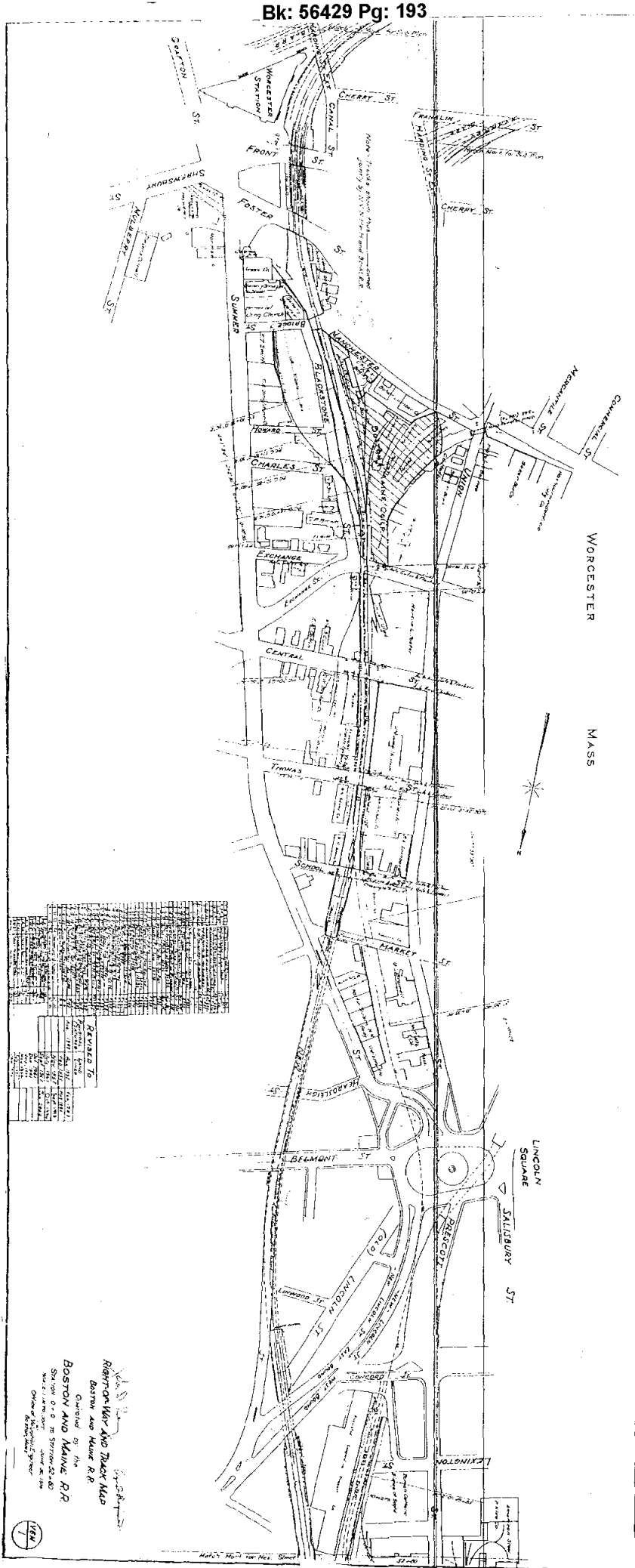


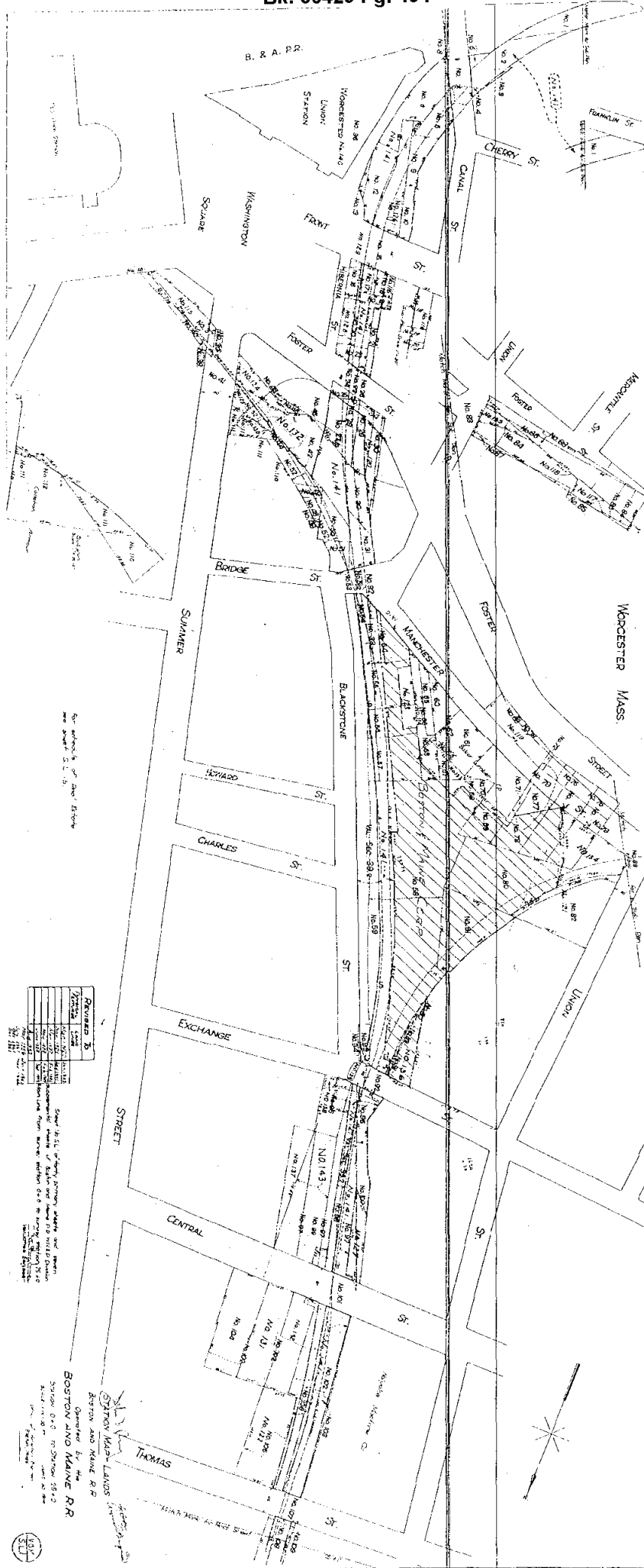
RIGHT OF WAY AND TRAIL MAP

newly to be made: a new

BOSTON AND MAINE R.R.
Station No. 10

$$\left(\frac{176}{12}\right)$$


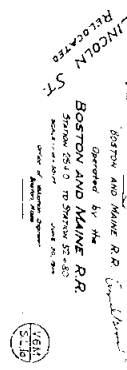


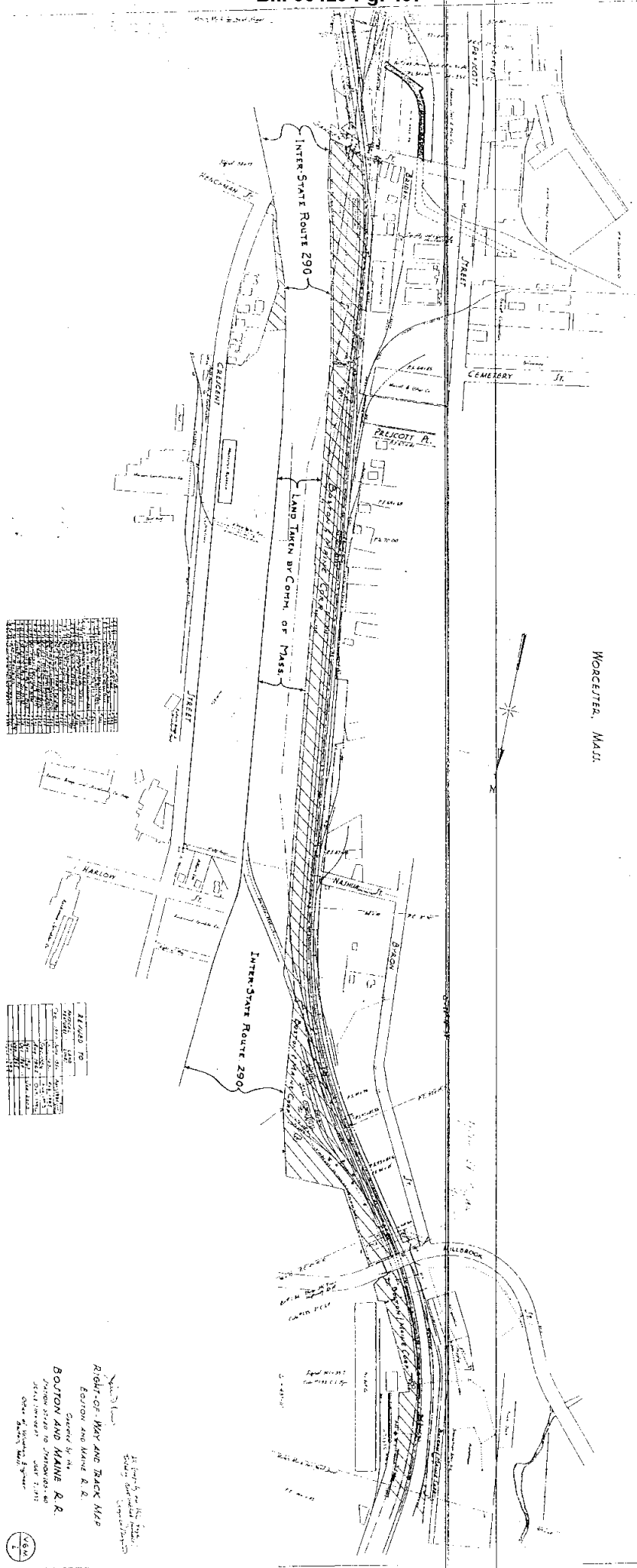


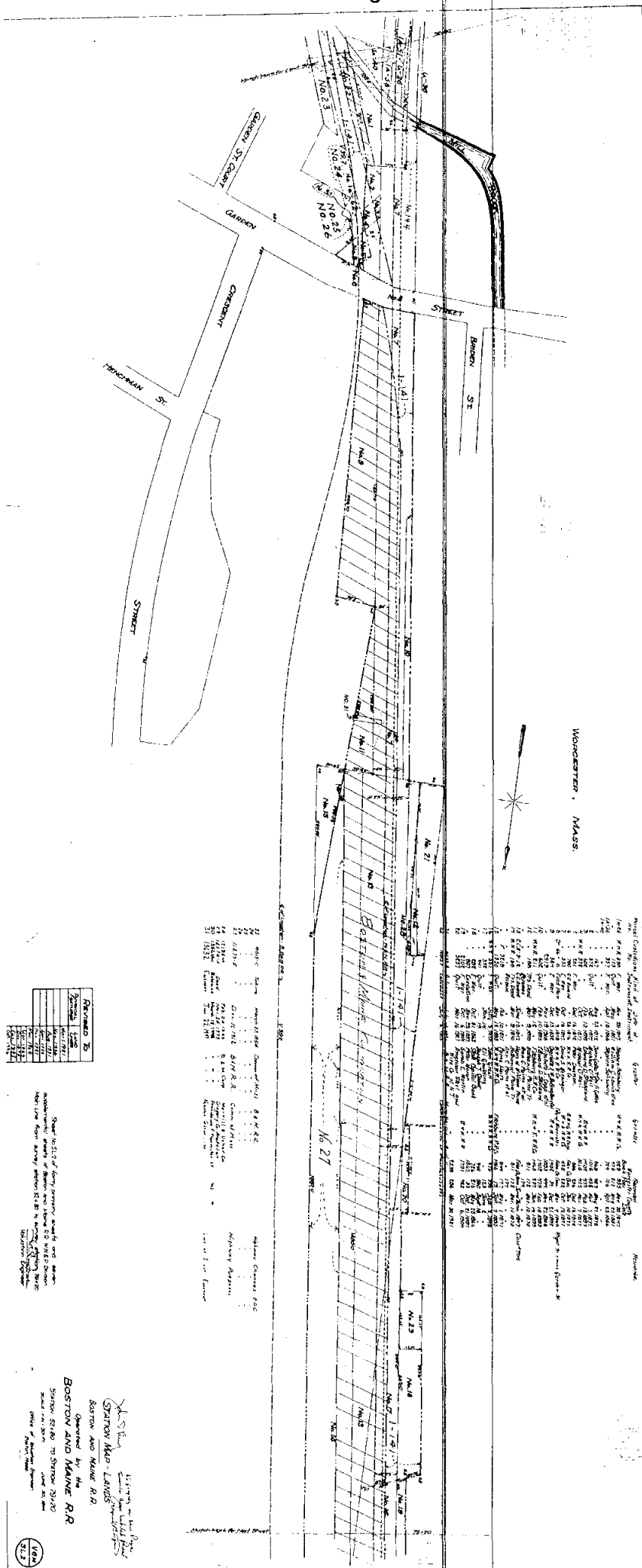
See reference to map of Block
see sheet S.C. 15

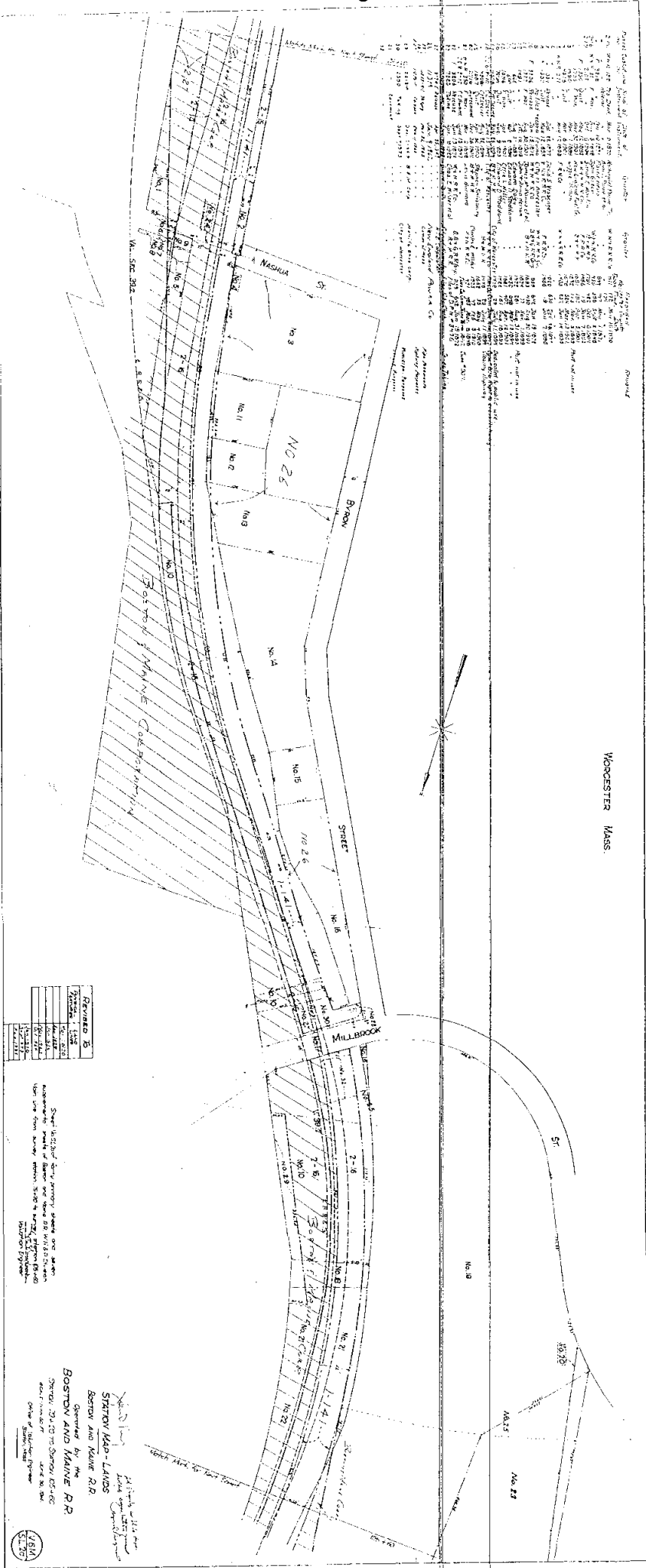
Sheet is S.C. of every primary water and street
showing the location of water and street in the Union
Station area. The Union Station is shown in the
center of the map.

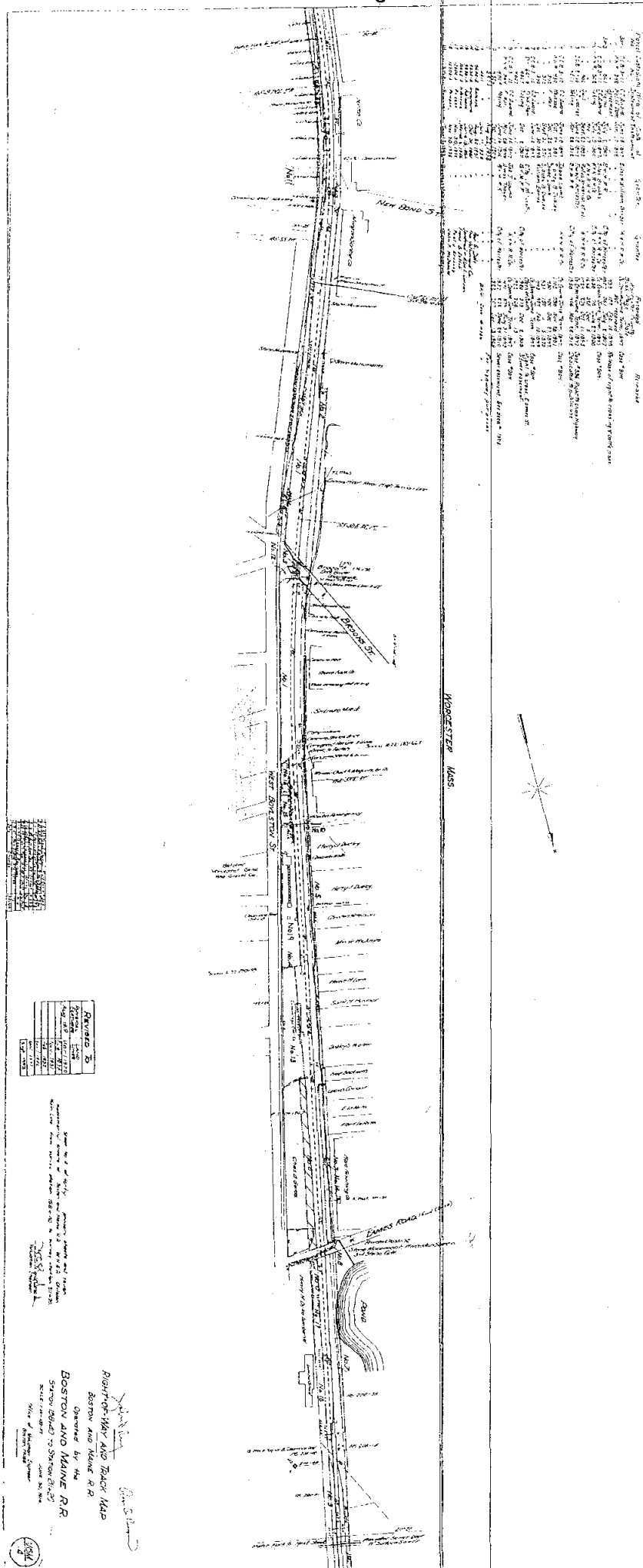
STATION MAP LANDS
BOSTON AND MAINE R.R.
Operating by the
BOSTON AND MAINE R.R.
STATION 0.0 TO STATION 0.4
BOSTON AND MAINE R.R.
BOSTON AND MAINE R.R.

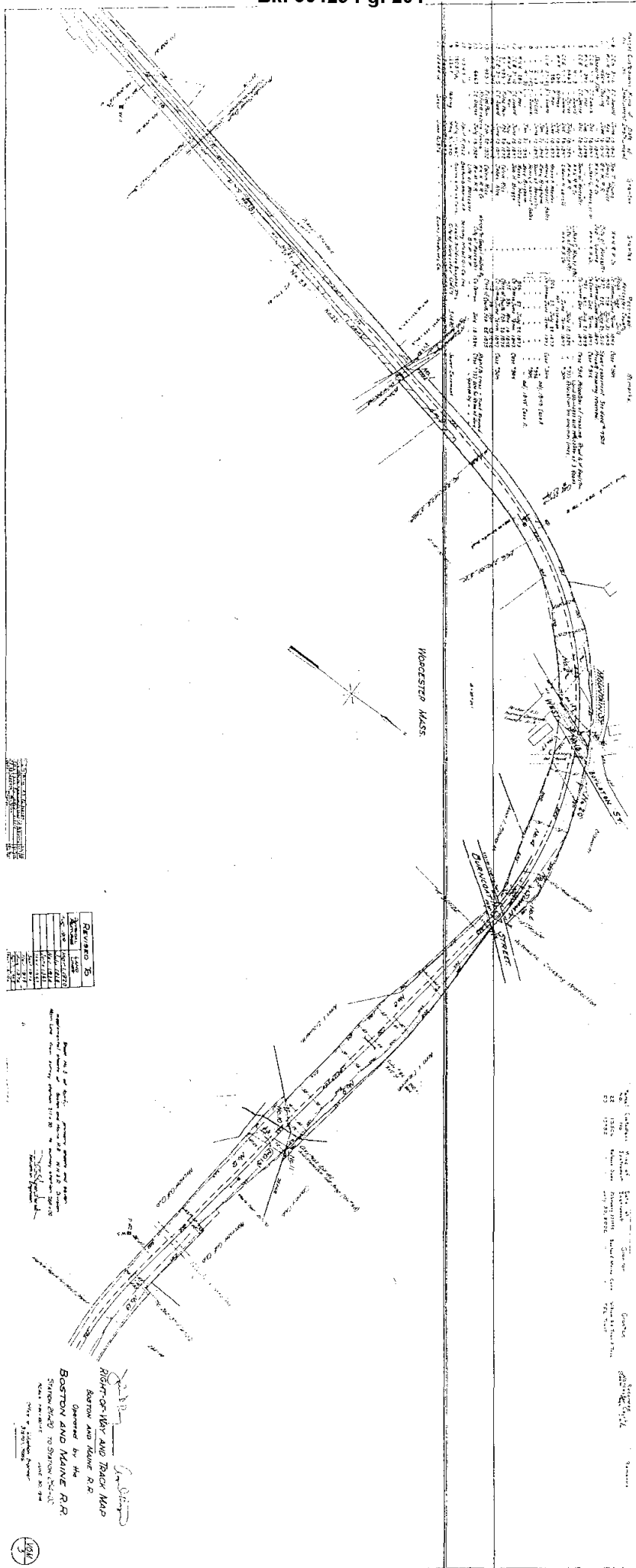










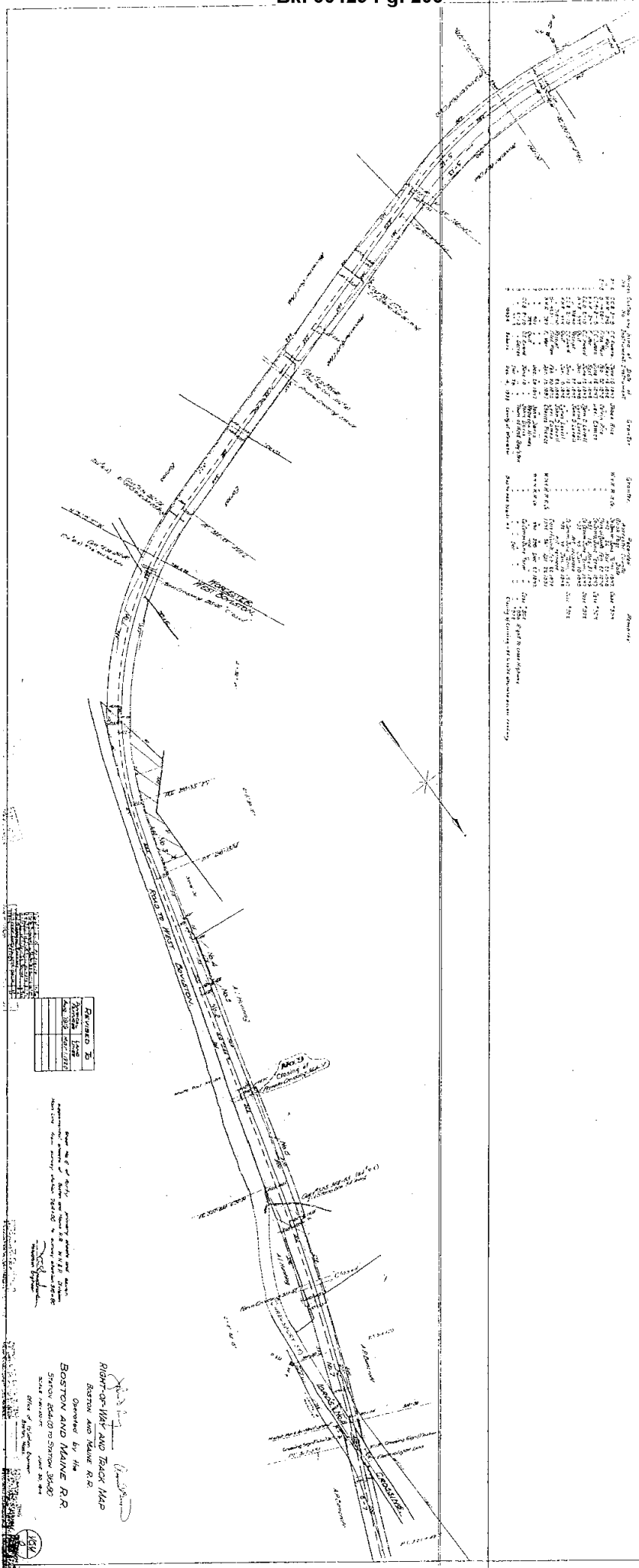


Revised to:

Station	100+00
Track	1
Grade	2.5%
Curve	100'
Notes	

Revised to: 100+00
Track: 1
Grade: 2.5%
Curve: 100'
Notes: See Station 100+00

BOSTON AND MAINE R.R.
STATION ROAD TO STATION 100+00
Revised by the
BOSTON AND MAINE R.R.
STATION ROAD TO STATION 100+00
Revised by the
BOSTON AND MAINE R.R.



Station	Track	Distance	Notes
0+00	1	0.00	Start of track
0+10	1	0.10	
0+20	1	0.20	
0+30	1	0.30	
0+40	1	0.40	
0+50	1	0.50	
0+60	1	0.60	
0+70	1	0.70	
0+80	1	0.80	
0+90	1	0.90	
1+00	1	1.00	
1+10	1	1.10	
1+20	1	1.20	
1+30	1	1.30	
1+40	1	1.40	
1+50	1	1.50	
1+60	1	1.60	
1+70	1	1.70	
1+80	1	1.80	
1+90	1	1.90	
2+00	1	2.00	
2+10	1	2.10	
2+20	1	2.20	
2+30	1	2.30	
2+40	1	2.40	
2+50	1	2.50	
2+60	1	2.60	
2+70	1	2.70	
2+80	1	2.80	
2+90	1	2.90	
3+00	1	3.00	
3+10	1	3.10	
3+20	1	3.20	
3+30	1	3.30	
3+40	1	3.40	
3+50	1	3.50	
3+60	1	3.60	
3+70	1	3.70	
3+80	1	3.80	
3+90	1	3.90	
4+00	1	4.00	
4+10	1	4.10	
4+20	1	4.20	
4+30	1	4.30	
4+40	1	4.40	
4+50	1	4.50	
4+60	1	4.60	
4+70	1	4.70	
4+80	1	4.80	
4+90	1	4.90	
5+00	1	5.00	
5+10	1	5.10	
5+20	1	5.20	
5+30	1	5.30	
5+40	1	5.40	
5+50	1	5.50	
5+60	1	5.60	
5+70	1	5.70	
5+80	1	5.80	
5+90	1	5.90	
6+00	1	6.00	
6+10	1	6.10	
6+20	1	6.20	
6+30	1	6.30	
6+40	1	6.40	
6+50	1	6.50	
6+60	1	6.60	
6+70	1	6.70	
6+80	1	6.80	
6+90	1	6.90	
7+00	1	7.00	
7+10	1	7.10	
7+20	1	7.20	
7+30	1	7.30	
7+40	1	7.40	
7+50	1	7.50	
7+60	1	7.60	
7+70	1	7.70	
7+80	1	7.80	
7+90	1	7.90	
8+00	1	8.00	
8+10	1	8.10	
8+20	1	8.20	
8+30	1	8.30	
8+40	1	8.40	
8+50	1	8.50	
8+60	1	8.60	
8+70	1	8.70	
8+80	1	8.80	
8+90	1	8.90	
9+00	1	9.00	
9+10	1	9.10	
9+20	1	9.20	
9+30	1	9.30	
9+40	1	9.40	
9+50	1	9.50	
9+60	1	9.60	
9+70	1	9.70	
9+80	1	9.80	
9+90	1	9.90	
10+00	1	10.00	

Station	Track	Distance	Notes
0+00	1	0.00	Start of track
0+10	1	0.10	
0+20	1	0.20	
0+30	1	0.30	
0+40	1	0.40	
0+50	1	0.50	
0+60	1	0.60	
0+70	1	0.70	
0+80	1	0.80	
0+90	1	0.90	
1+00	1	1.00	
1+10	1	1.10	
1+20	1	1.20	
1+30	1	1.30	
1+40	1	1.40	
1+50	1	1.50	
1+60	1	1.60	
1+70	1	1.70	
1+80	1	1.80	
1+90	1	1.90	
2+00	1	2.00	
2+10	1	2.10	
2+20	1	2.20	
2+30	1	2.30	
2+40	1	2.40	
2+50	1	2.50	
2+60	1	2.60	
2+70	1	2.70	
2+80	1	2.80	
2+90	1	2.90	
3+00	1	3.00	
3+10	1	3.10	
3+20	1	3.20	
3+30	1	3.30	
3+40	1	3.40	
3+50	1	3.50	
3+60	1	3.60	
3+70	1	3.70	
3+80	1	3.80	
3+90	1	3.90	
4+00	1	4.00	
4+10	1	4.10	
4+20	1	4.20	
4+30	1	4.30	
4+40	1	4.40	
4+50	1	4.50	
4+60	1	4.60	
4+70	1	4.70	
4+80	1	4.80	
4+90	1	4.90	
5+00	1	5.00	
5+10	1	5.10	
5+20	1	5.20	
5+30	1	5.30	
5+40	1	5.40	
5+50	1	5.50	
5+60	1	5.60	
5+70	1	5.70	
5+80	1	5.80	
5+90	1	5.90	
6+00	1	6.00	
6+10	1	6.10	
6+20	1	6.20	
6+30	1	6.30	
6+40	1	6.40	
6+50	1	6.50	
6+60	1	6.60	
6+70	1	6.70	
6+80	1	6.80	
6+90	1	6.90	
7+00	1	7.00	
7+10	1	7.10	
7+20	1	7.20	
7+30	1	7.30	
7+40	1	7.40	
7+50	1	7.50	
7+60	1	7.60	
7+70	1	7.70	
7+80	1	7.80	
7+90	1	7.90	
8+00	1	8.00	
8+10	1	8.10	
8+20	1	8.20	
8+30	1	8.30	
8+40	1	8.40	
8+50	1	8.50	
8+60	1	8.60	
8+70	1	8.70	
8+80	1	8.80	
8+90	1	8.90	
9+00	1	9.00	
9+10	1	9.10	
9+20	1	9.20	
9+30	1	9.30	
9+40	1	9.40	
9+50	1	9.50	
9+60	1	9.60	
9+70	1	9.70	
9+80	1	9.80	
9+90	1	9.90	
10+00	1	10.00	

Scale 1" = 100 feet
 North Arrow
 Stationing from 0+00 to 10+00

RIGHT-OF-WAY AND TRACK MAP
 BOSTON AND MAINE R.R.
 Drawn by H.A.
 BOSTON AND MAINE R.R.
 STATION 0+00 TO STATION 10+00
 Scale 1" = 100 feet
 Date 10-1-1914

Table with 4 columns: Station, Elevation, Distance, and Remarks. The table contains detailed survey data for the West Boston Mass. project, including station numbers, elevations, and descriptive remarks.

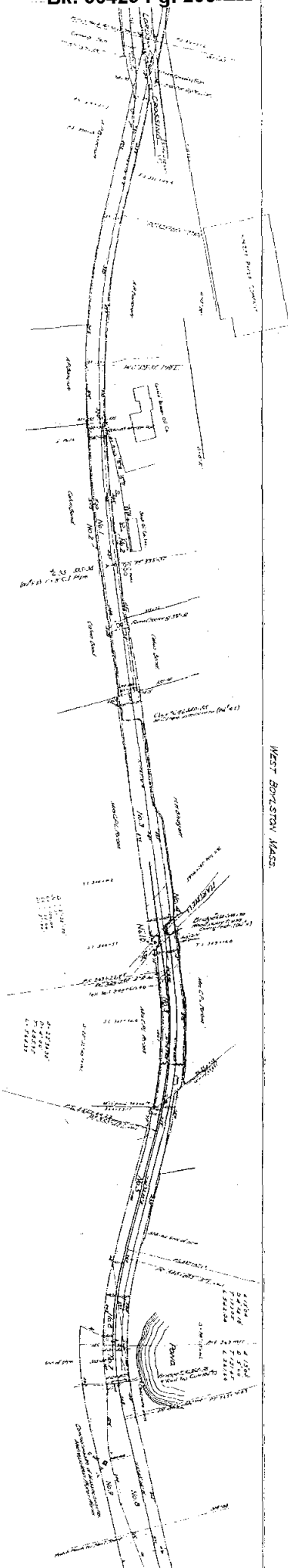
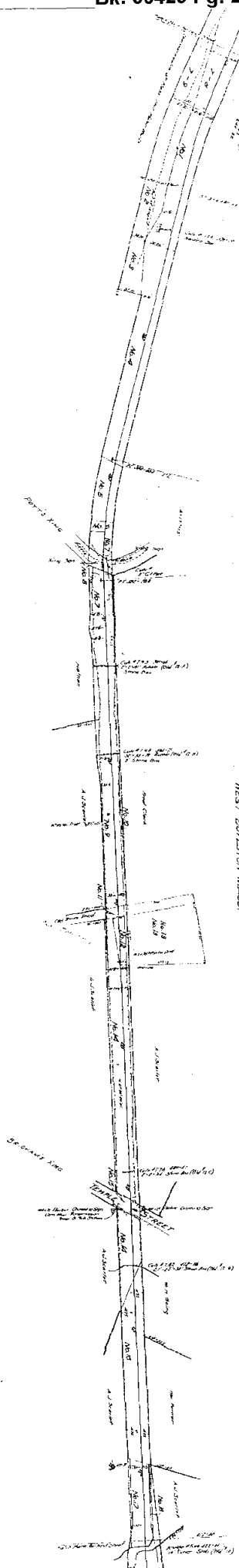


Table with 2 columns: Station and Elevation. It lists specific station points and their corresponding elevations.

Notes and additional information related to the survey, including a reference to 'Sheet 207 of Study' and a signature.

RIGHT-OF-WAY AND TRACK MAP
BOSTON AND MAINE R.R.
STATION AND TRACK MAP
BOSTON AND MAINE R.R.
STATION AND TRACK MAP

Year	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937	1938	1939	1940	1941	1942	1943	1944	1945	1946	1947	1948	1949	1950	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100
1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937	1938	1939	1940	1941	1942	1943	1944	1945	1946	1947	1948	1949	1950	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	



WEST BOYLSTON MASS.

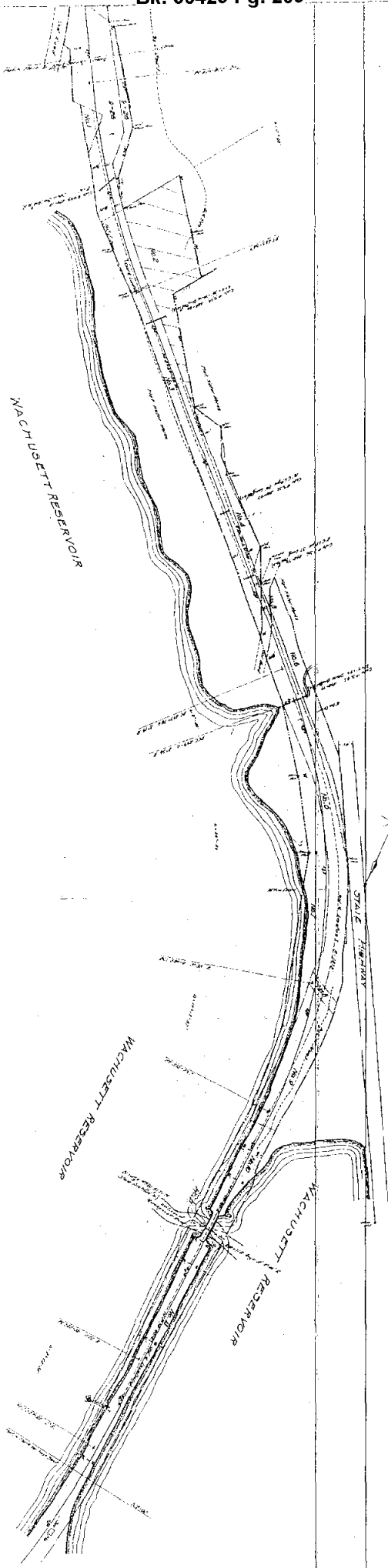
Revised To	
Previous Returns	and Lines
Aug 1968	1577.1820
	20.1214

Shovel #18 at forty primary shovels and seven secondary shovels at Station one above R. 2. N. 6. P. Division Main Line from survey station 3089+00 to survey station 3179+00.

Right-of-Way and Track Map
 Boston and Maine R.R.
 Governed by the
 Boston and Maine R.R.
 STATION 36-5-60 TO STATION 42-4-60
 SCALE: 1"=100' JAN 30, 64
 Office of Station Engineer
 Boston, Mass.

90

Station	Distance from Boston, Mass.	Grade	Remarks
0+00	0.00	1.5	Start of bridge
0+10	0.10	1.5	
0+20	0.20	1.5	
0+30	0.30	1.5	
0+40	0.40	1.5	
0+50	0.50	1.5	
0+60	0.60	1.5	
0+70	0.70	1.5	
0+80	0.80	1.5	
0+90	0.90	1.5	
1+00	1.00	1.5	End of bridge

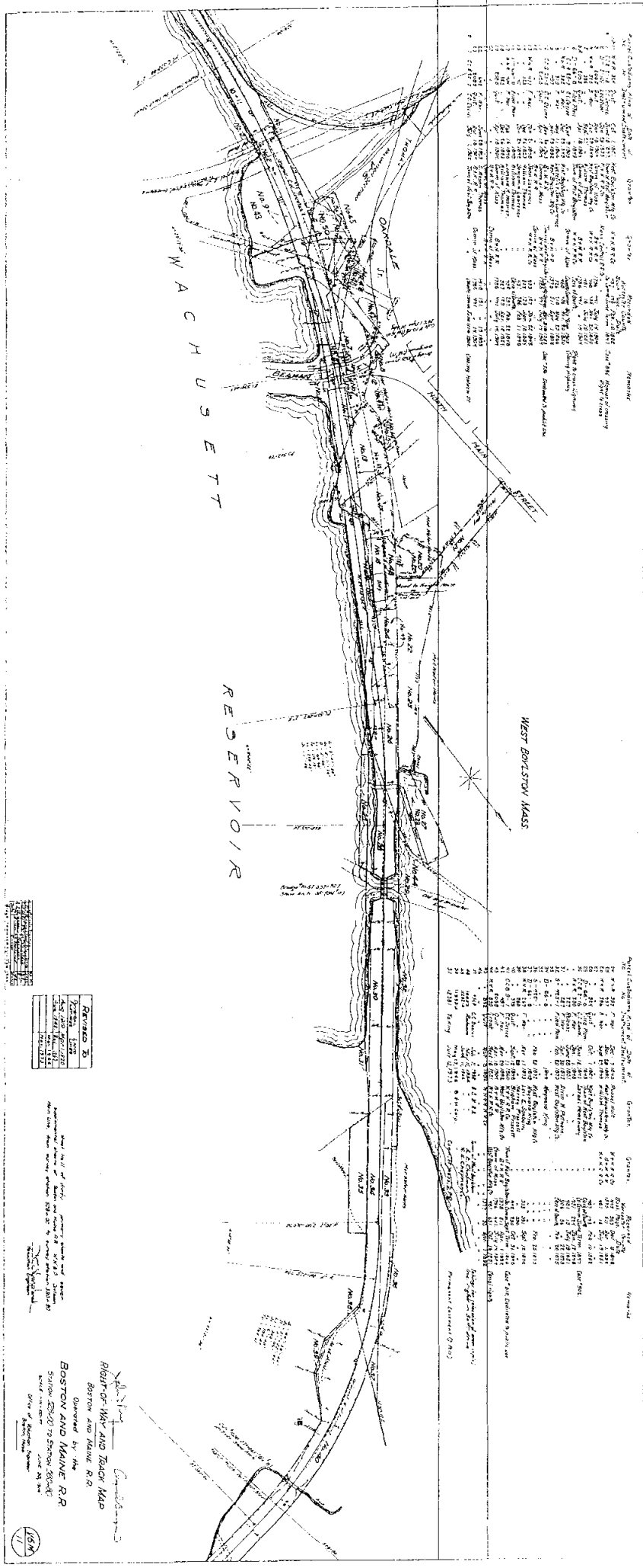


1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
---	---	---	---	---	---	---	---	---	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	----	-----

Station	Distance from Boston, Mass.	Grade	Remarks
0+00	0.00	1.5	Start of bridge
0+10	0.10	1.5	
0+20	0.20	1.5	
0+30	0.30	1.5	
0+40	0.40	1.5	
0+50	0.50	1.5	
0+60	0.60	1.5	
0+70	0.70	1.5	
0+80	0.80	1.5	
0+90	0.90	1.5	
1+00	1.00	1.5	End of bridge

Drawn by the
BOSTON AND MAINE R.R.
SHOWN TO SHOW BRIDGE
AND TO SHOW
LOCATION OF BRIDGE

Drawn by the
BOSTON AND MAINE R.R.
SHOWN TO SHOW BRIDGE
AND TO SHOW
LOCATION OF BRIDGE

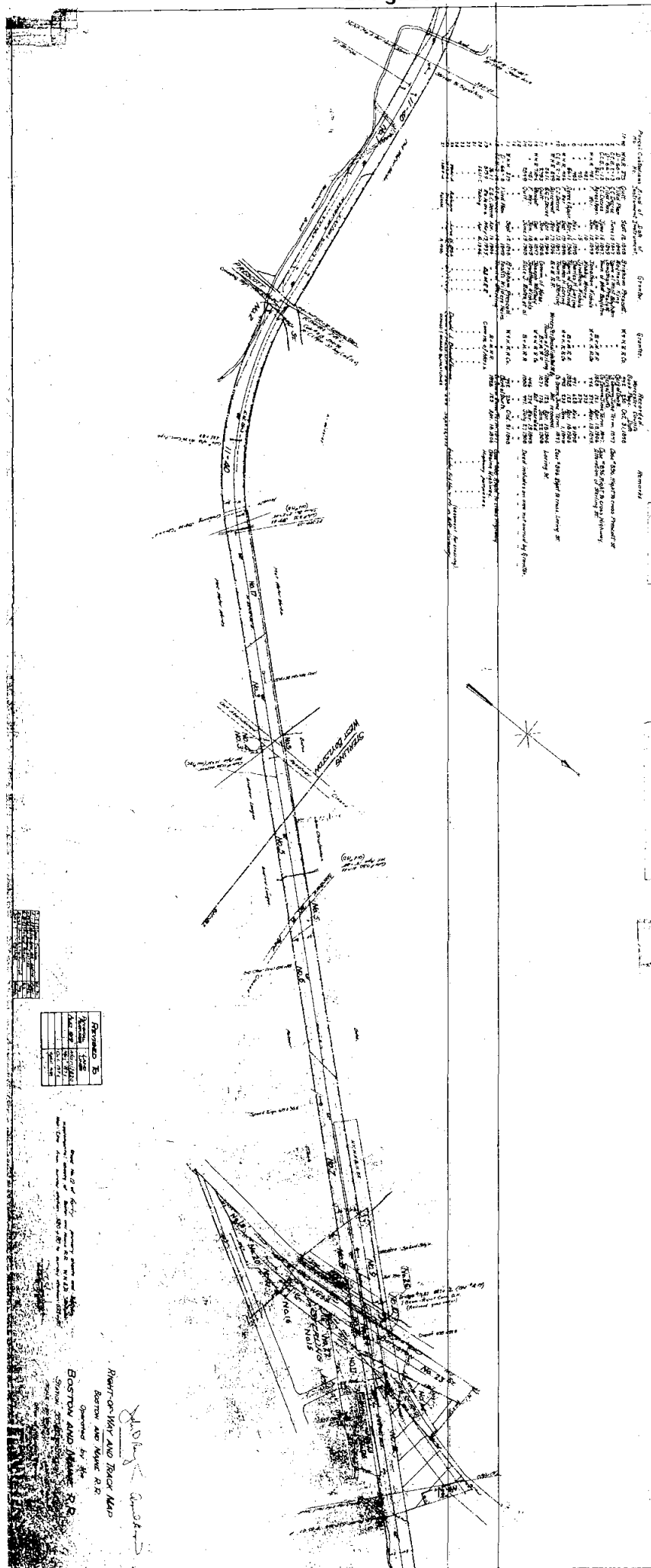


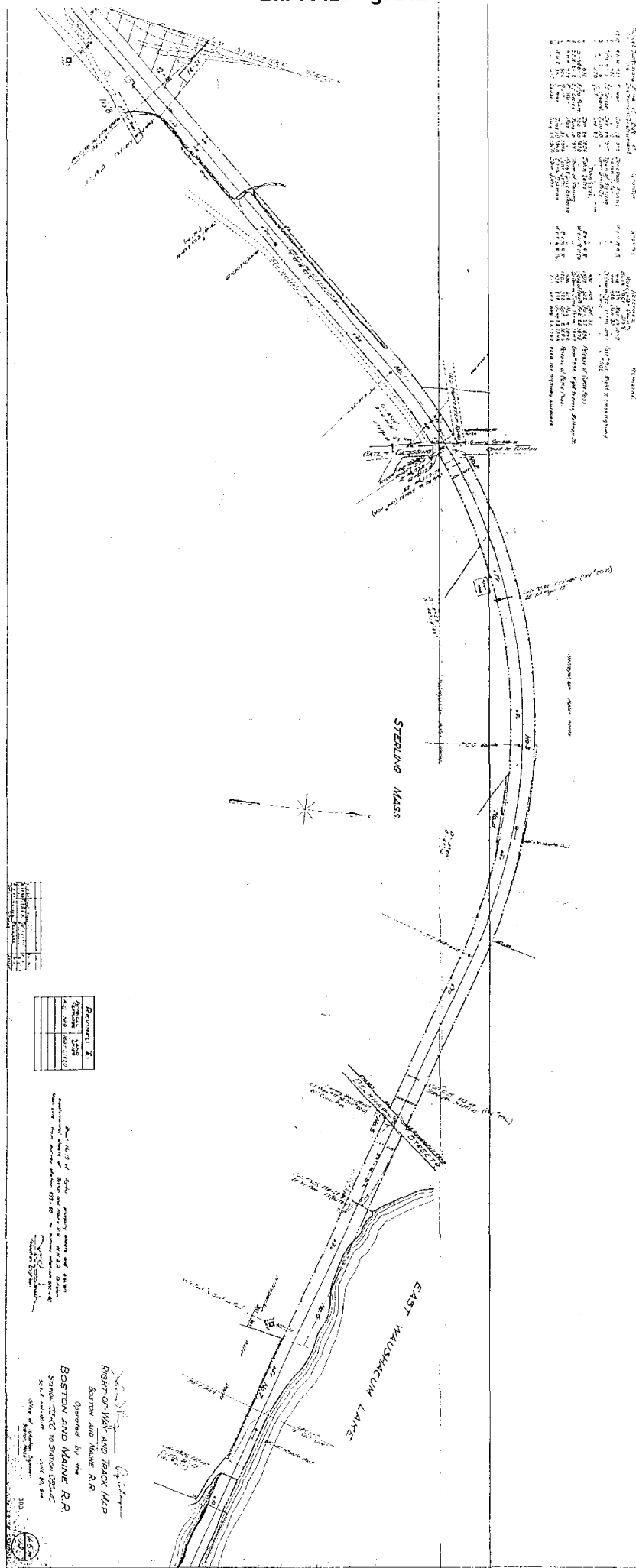
CONTAINED TO
1. 1000
2. 1000
3. 1000
4. 1000
5. 1000
6. 1000
7. 1000
8. 1000
9. 1000
10. 1000

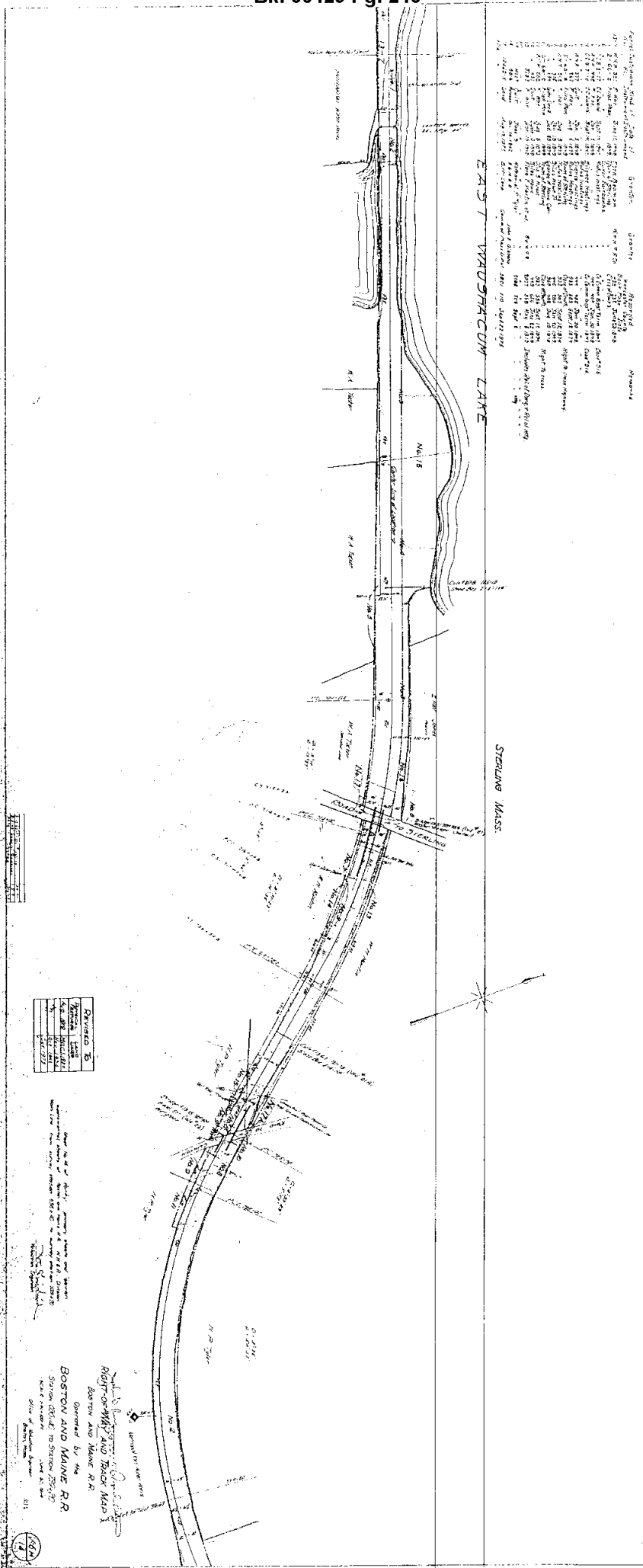
any and all of rights, claims and interests
in and to the land shown on this map
shall be deemed to be conveyed by this map
to the person or persons named herein.

Surveyed by the
BOSTON AND MAINE R.R.
SOUTH BOSTON TO BOSTON
1894

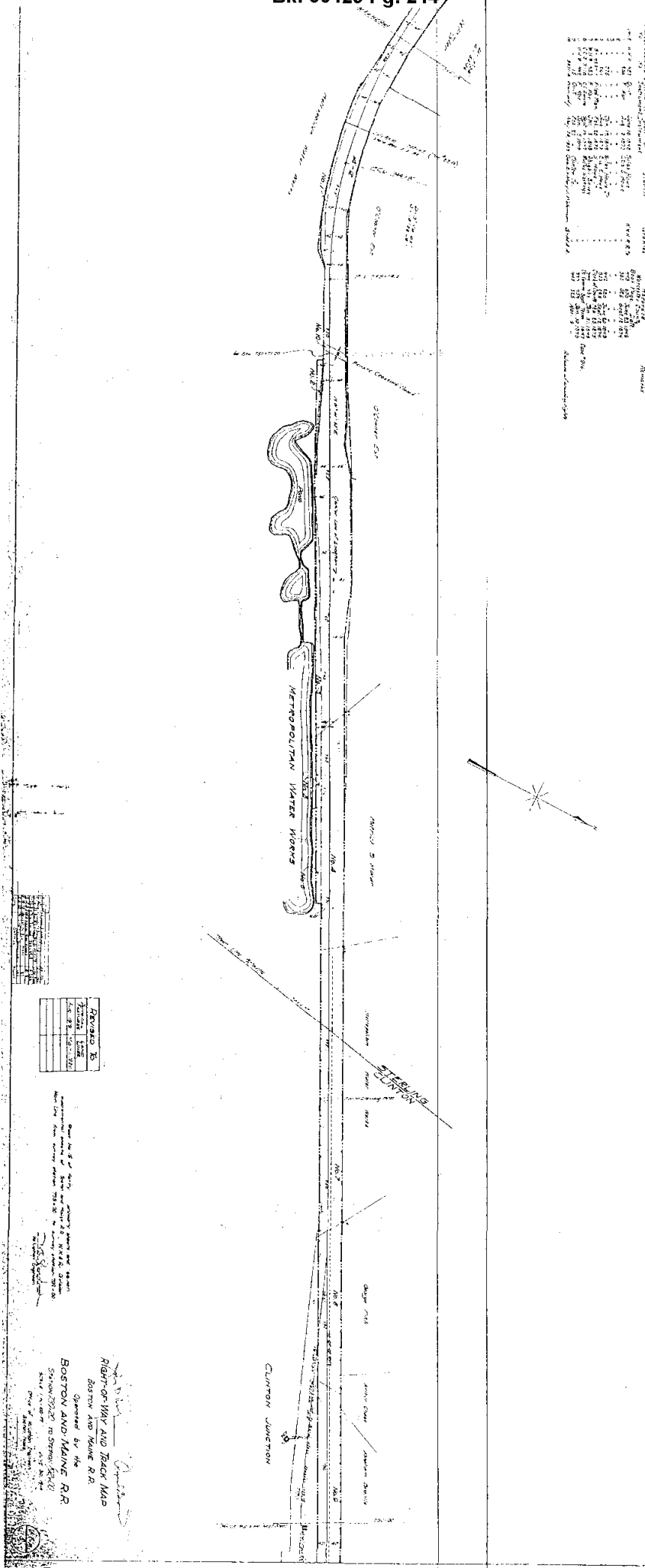
1894



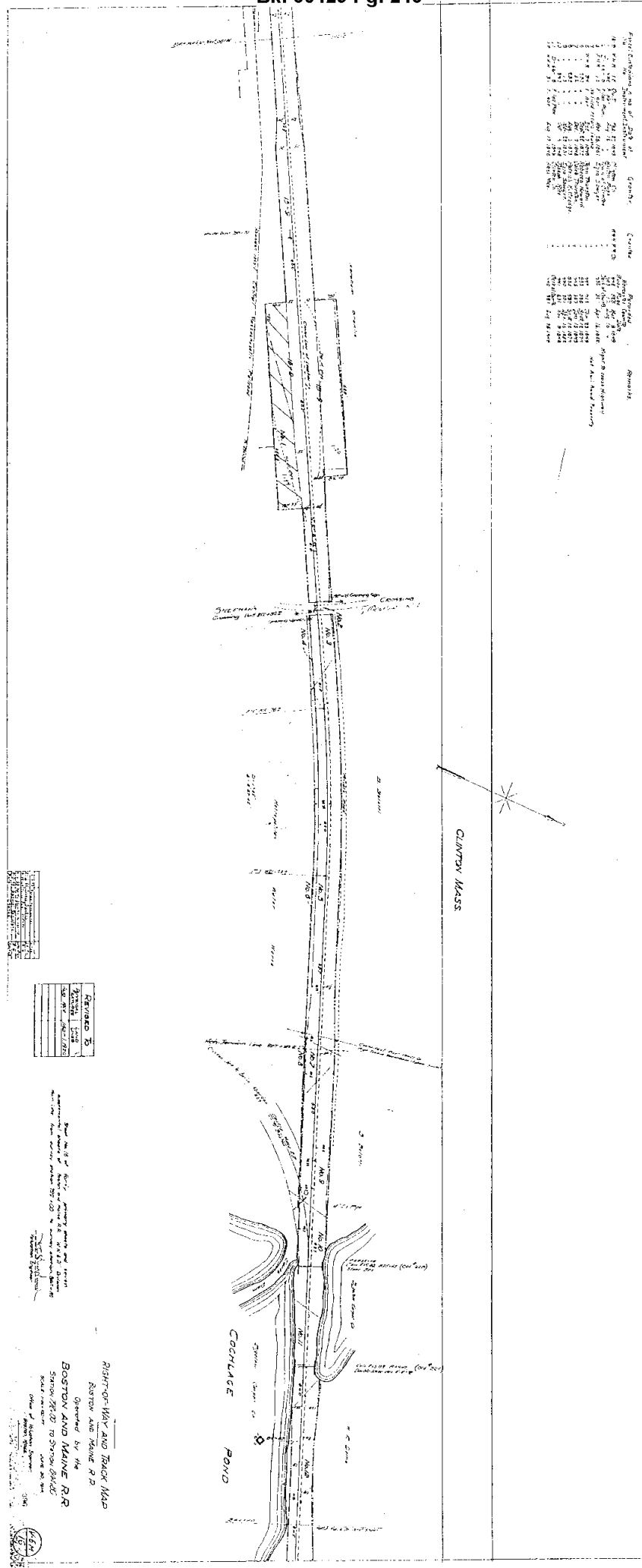




Station	Distance from Boston	Distance from New York	Distance from Philadelphia	Distance from Washington	Distance from Richmond	Distance from Norfolk	Distance from Baltimore	Distance from Annapolis	Distance from Alexandria	Distance from Arlington	Distance from Falls Church	Distance from Fairfax	Distance from Loudoun	Distance from Stafford	Distance from Culpeper	Distance from Warrenton	Distance from Leesville	Distance from York	Distance from Lancaster	Distance from Gettysburg	Distance from Harrisburg	Distance from Philadelphia	Distance from New York	Distance from Boston
Boston	0	185	240	280	310	340	370	400	430	460	490	520	550	580	610	640	670	700	730	760	790	820	850	880
New York	185	0	55	95	125	155	185	215	245	275	305	335	365	395	425	455	485	515	545	575	605	635	665	695
New York	240	55	0	40	70	100	130	160	190	220	250	280	310	340	370	400	430	460	490	520	550	580	610	640
Philadelphia	280	95	40	0	30	60	90	120	150	180	210	240	270	300	330	360	390	420	450	480	510	540	570	600
Washington	310	125	70	30	0	30	60	90	120	150	180	210	240	270	300	330	360	390	420	450	480	510	540	570
Richmond	340	155	100	60	30	0	30	60	90	120	150	180	210	240	270	300	330	360	390	420	450	480	510	540
Norfolk	370	185	130	90	60	30	0	30	60	90	120	150	180	210	240	270	300	330	360	390	420	450	480	510
Baltimore	400	215	160	120	90	60	30	0	30	60	90	120	150	180	210	240	270	300	330	360	390	420	450	480
Annapolis	430	245	190	150	120	90	60	30	0	30	60	90	120	150	180	210	240	270	300	330	360	390	420	450
Alexandria	460	275	220	180	150	120	90	60	30	0	30	60	90	120	150	180	210	240	270	300	330	360	390	420
Arlington	490	305	250	210	180	150	120	90	60	30	0	30	60	90	120	150	180	210	240	270	300	330	360	390
Falls Church	520	335	280	240	210	180	150	120	90	60	30	0	30	60	90	120	150	180	210	240	270	300	330	360
Fairfax	550	365	310	270	240	210	180	150	120	90	60	30	0	30	60	90	120	150	180	210	240	270	300	330
Loudoun	580	395	340	300	270	240	210	180	150	120	90	60	30	0	30	60	90	120	150	180	210	240	270	300
Stafford	610	425	370	330	300	270	240	210	180	150	120	90	60	30	0	30	60	90	120	150	180	210	240	270
Culpeper	640	455	400	360	330	300	270	240	210	180	150	120	90	60	30	0	30	60	90	120	150	180	210	240
Warrenton	670	485	430	390	360	330	300	270	240	210	180	150	120	90	60	30	0	30	60	90	120	150	180	210
Leesville	700	515	460	420	390	360	330	300	270	240	210	180	150	120	90	60	30	0	30	60	90	120	150	180
York	730	545	490	450	420	390	360	330	300	270	240	210	180	150	120	90	60	30	0	30	60	90	120	150
Lancaster	760	575	520	480	450	420	390	360	330	300	270	240	210	180	150	120	90	60	30	0	30	60	90	120
Gettysburg	790	605	550	510	480	450	420	390	360	330	300	270	240	210	180	150	120	90	60	30	0	30	60	90
Harrisburg	820	635	580	540	510	480	450	420	390	360	330	300	270	240	210	180	150	120	90	60	30	0	30	60
Philadelphia	850	665	610	570	540	510	480	450	420	390	360	330	300	270	240	210	180	150	120	90	60	30	0	30
New York	880	695	640	600	570	540	510	480	450	420	390	360	330	300	270	240	210	180	150	120	90	60	30	0
Boston	910	725	670	630	600	570	540	510	480	450	420	390	360	330	300	270	240	210	180	150	120	90	60	30



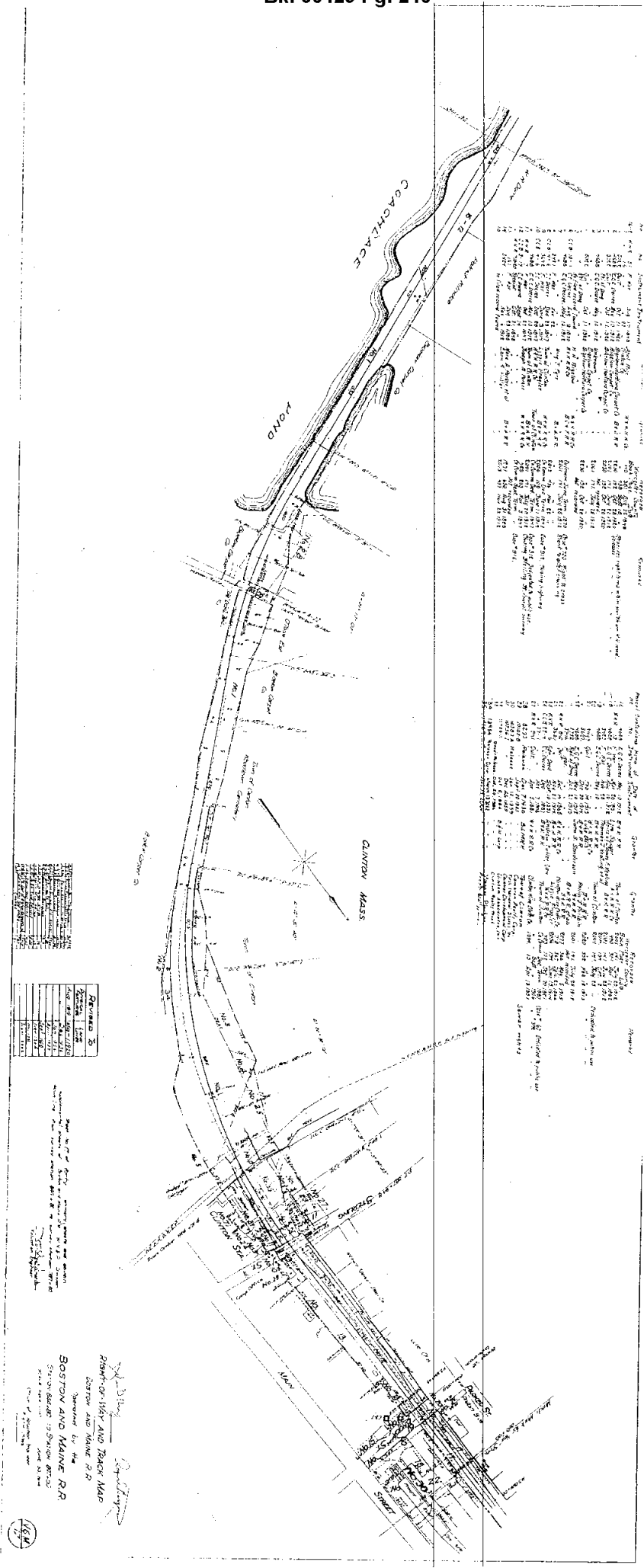
Station	Grade	Profile	Remarks
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101	100.00	100.00	
102	100.00	100.00	
103	100.00	100.00	
104	100.00	100.00	
105	100.00	100.00	
106	100.00	100.00	
107	100.00	100.00	
108	100.00	100.00	
109	100.00	100.00	
110	100.00	100.00	
111	100.00	100.00	
112	100.00	100.00	
113	100.00	100.00	
114	100.00	100.00	
115	100.00	100.00	
116	100.00	100.00	
117	100.00	100.00	
118	100.00	100.00	
119	100.00	100.00	
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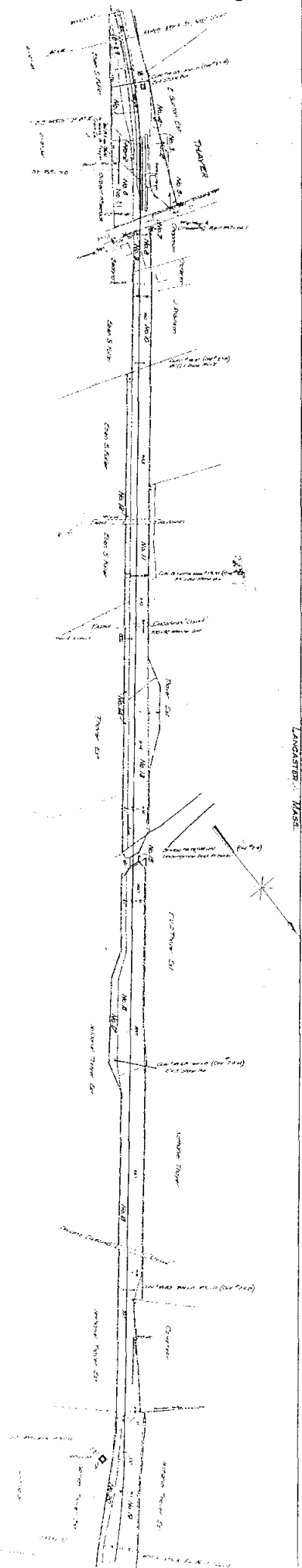
Station	Grade	Profile	Remarks
100	100.00	100.00	
101	100.00	100.00	
102	100.00	100.00	
103	100.00	100.00	
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115	100.00	100.00	
116	100.00	100.00	
117	100.00	100.00	
118	100.00	100.00	
119	100.00	100.00	
120	100.00	100.00	

Right-of-Way and Track Map
 BOSTON AND MAINE R.R.
 Station 100 to 120
 Scale 1" = 100'

Right-of-Way and Track Map
 BOSTON AND MAINE R.R.
 Station 100 to 120
 Scale 1" = 100'



1	1935	10:00	St. Paul	Arrived from Chicago	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	10:00	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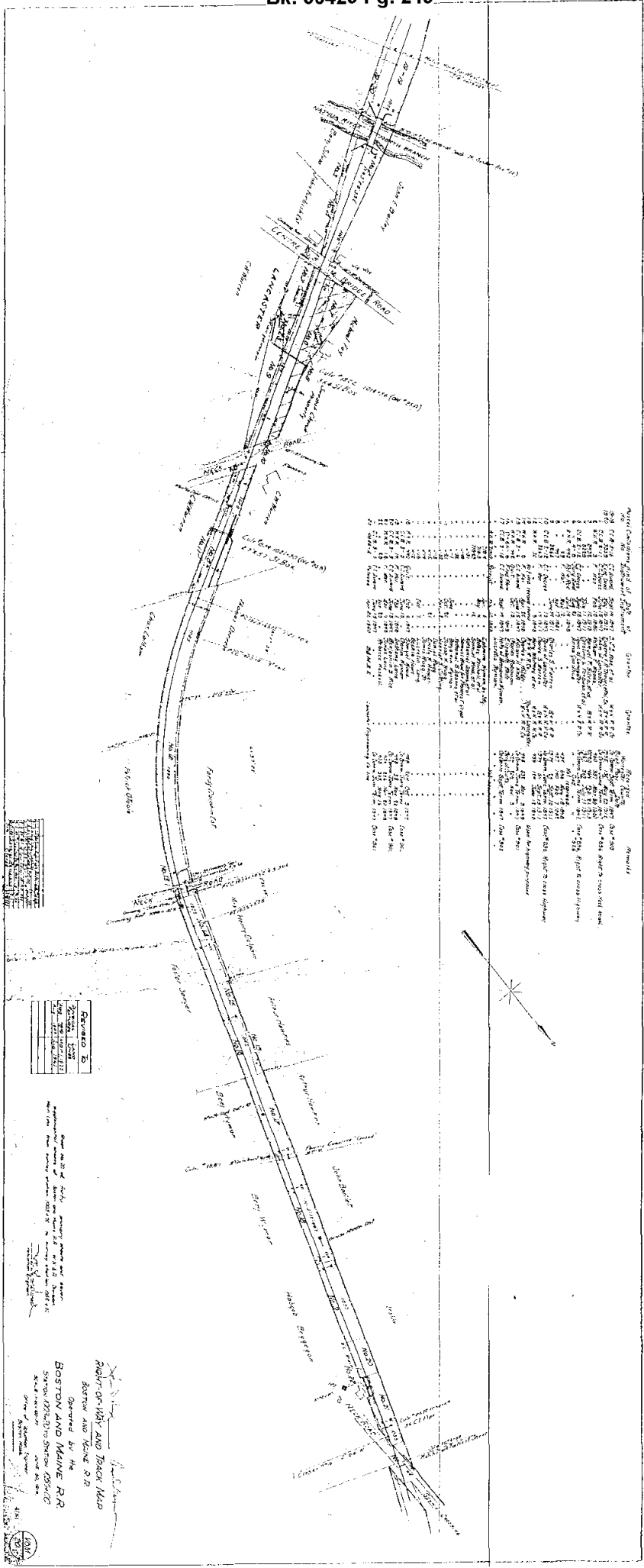
Handwritten musical notation on a single staff, featuring a treble clef and a key signature of one sharp (F#). The notation includes various notes, rests, and dynamic markings, including a prominent *ff* (fortissimo) marking.

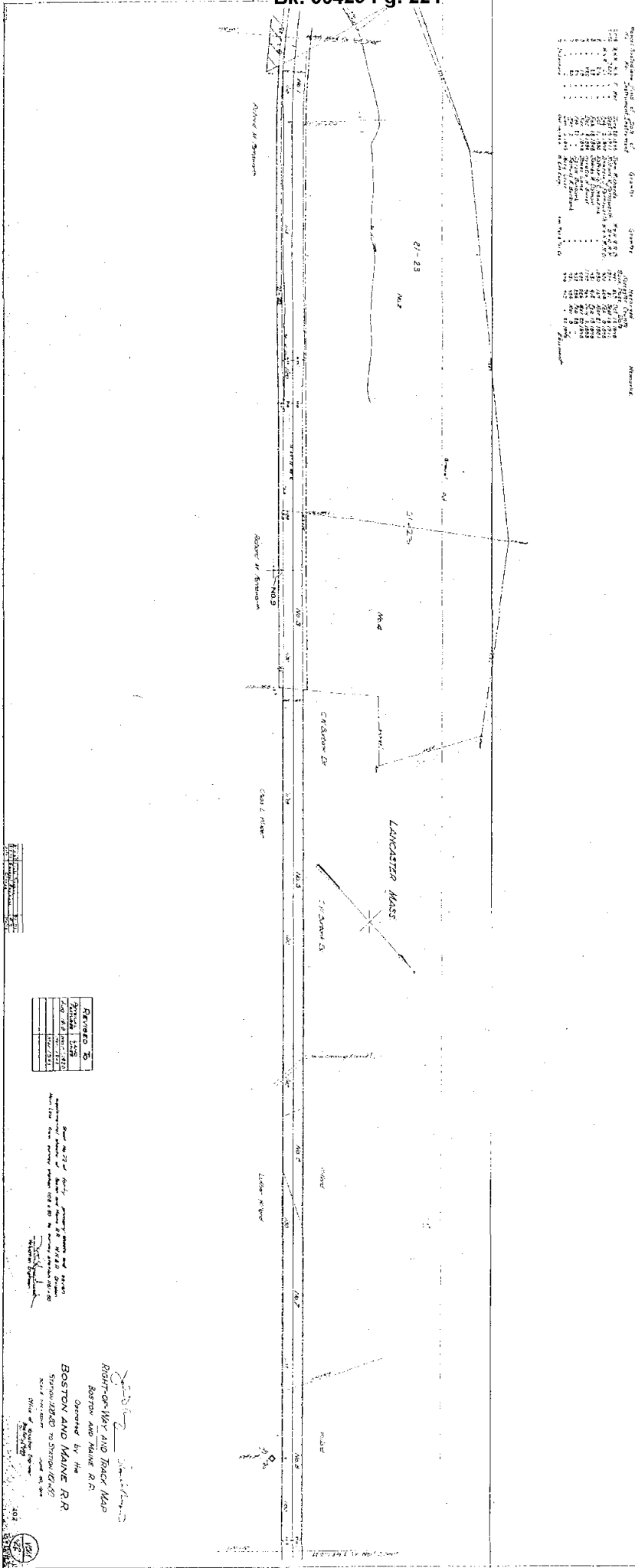
REVISED TO	
PREVIOUS EDITION	DATE
AS 799	MAR. 1, 1920
AS 2551	JULY 5, 1921

Date of birth: primary school age 36-40
 educational status of father and mother: B, A, U, D, C, others
 Mar. / Div. from primary school: 36-40, the primary school: 029-10
 (Signature)
 (Signature)
 (Signature)

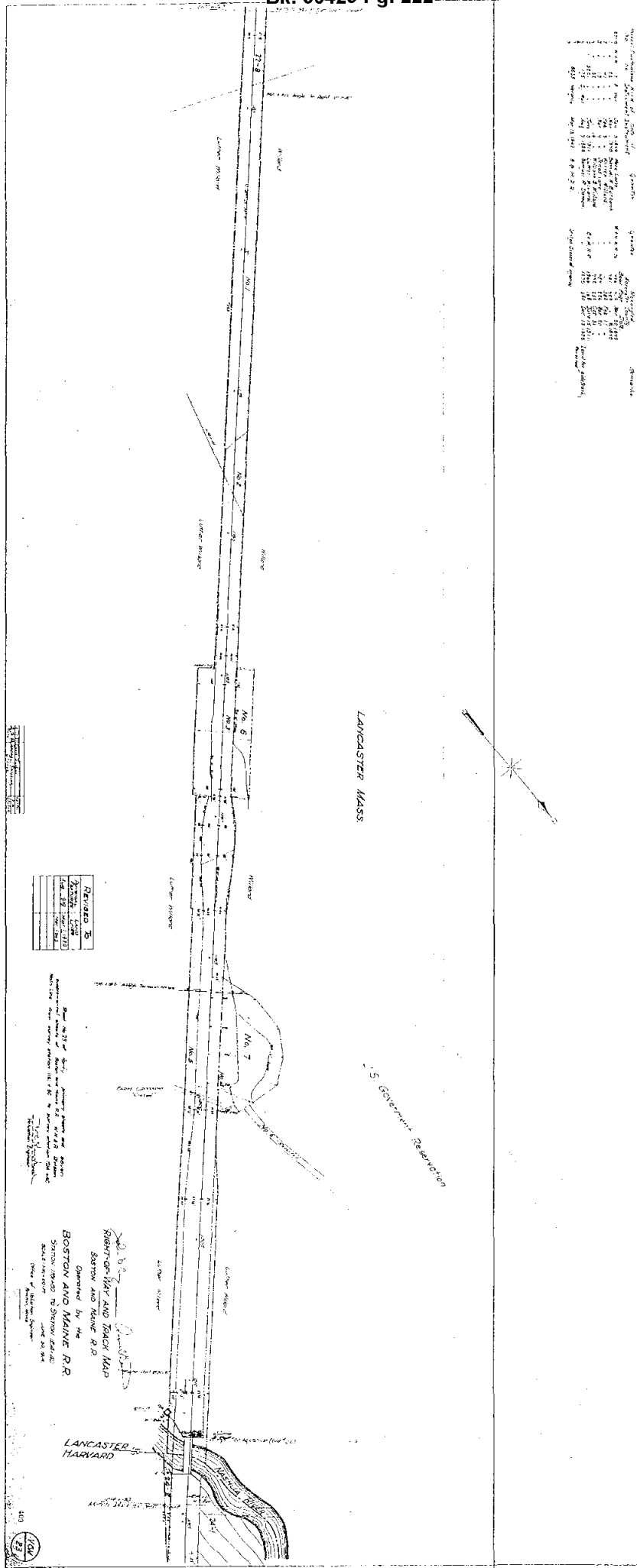
RIGHT-OF-WAY AND TRACK MAP
BOSTON AND MAINE R.R.
Operated by the
BOSTON AND MAINE R.R.
STATION LOCATED TO SECTION 11, TOWNSHIP 10 N., RANGE 20 W.
COUNTY OF HENRY, MINN.
FILED IN COUNTY RECORDS
JAN 10 1899

100

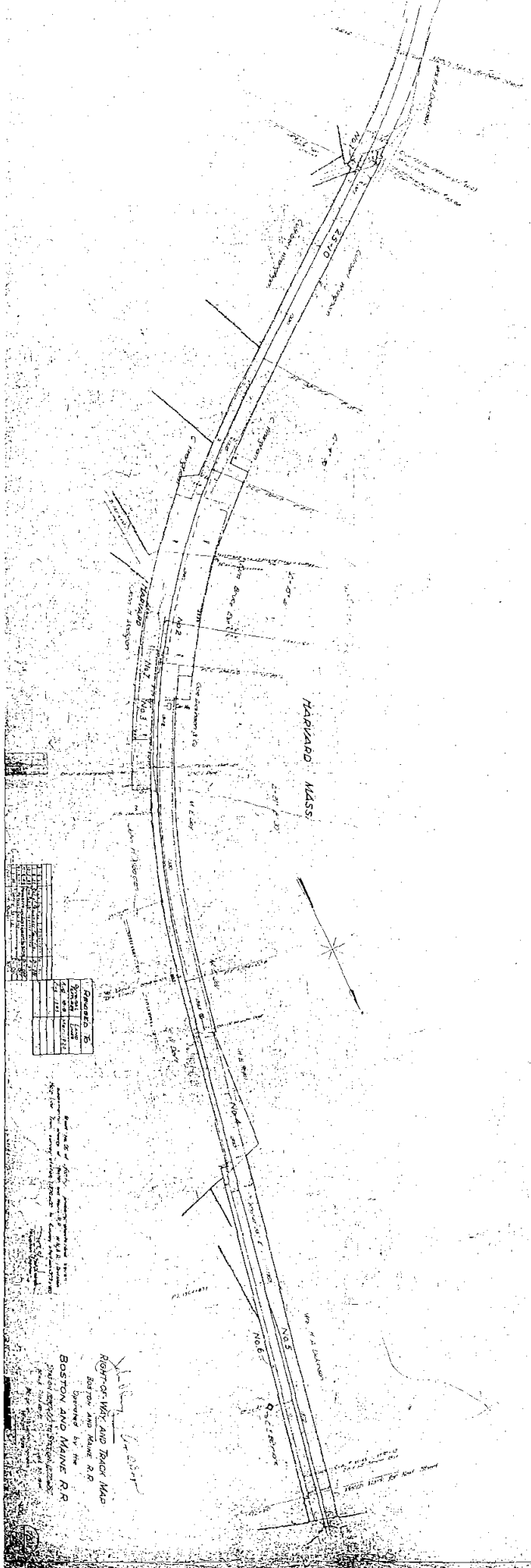


[illegible]

Year	Month	Day	Time	Location	Remarks
1971	Jan	1	10:00	St. John's	First sighting of the bird
1971	Jan	2	10:00	St. John's	Second sighting of the bird
1971	Jan	3	10:00	St. John's	Third sighting of the bird
1971	Jan	4	10:00	St. John's	Fourth sighting of the bird
1971	Jan	5	10:00	St. John's	Fifth sighting of the bird
1971	Jan	6	10:00	St. John's	Sixth sighting of the bird
1971	Jan	7	10:00	St. John's	Seventh sighting of the bird
1971	Jan	8	10:00	St. John's	Eighth sighting of the bird
1971	Jan	9	10:00	St. John's	Ninth sighting of the bird
1971	Jan	10	10:00	St. John's	Tenth sighting of the bird
1971	Jan	11	10:00	St. John's	Eleventh sighting of the bird
1971	Jan	12	10:00	St. John's	Twelfth sighting of the bird
1971	Jan	13	10:00	St. John's	Thirteenth sighting of the bird
1971	Jan	14	10:00	St. John's	Fourteenth sighting of the bird
1971	Jan	15	10:00	St. John's	Fifteenth sighting of the bird
1971	Jan	16	10:00	St. John's	Sixteenth sighting of the bird
1971	Jan	17	10:00	St. John's	Seventeenth sighting of the bird
1971	Jan	18	10:00	St. John's	Eighteenth sighting of the bird
1971	Jan	19	10:00	St. John's	Nineteenth sighting of the bird
1971	Jan	20	10:00	St. John's	Twentieth sighting of the bird
1971	Jan	21	10:00	St. John's	Twenty-first sighting of the bird
1971	Jan	22	10:00	St. John's	Twenty-second sighting of the bird
1971	Jan	23	10:00	St. John's	Twenty-third sighting of the bird
1971	Jan	24	10:00	St. John's	Twenty-fourth sighting of the bird
1971	Jan	25	10:00	St. John's	Twenty-fifth sighting of the bird
1971	Jan	26	10:00	St. John's	Twenty-sixth sighting of the bird
1971	Jan	27	10:00	St. John's	Twenty-seventh sighting of the bird
1971	Jan	28	10:00	St. John's	Twenty-eighth sighting of the bird
1971	Jan	29	10:00	St. John's	Twenty-ninth sighting of the bird
1971	Jan	30	10:00	St. John's	Thirtieth sighting of the bird



Station	Distance	Notes
0+00	0.00	Start of Section
1+00	1.00	End of Section
2+00	2.00	End of Section
3+00	3.00	End of Section
4+00	4.00	End of Section
5+00	5.00	End of Section
6+00	6.00	End of Section
7+00	7.00	End of Section
8+00	8.00	End of Section
9+00	9.00	End of Section
10+00	10.00	End of Section
11+00	11.00	End of Section
12+00	12.00	End of Section
13+00	13.00	End of Section
14+00	14.00	End of Section
15+00	15.00	End of Section
16+00	16.00	End of Section
17+00	17.00	End of Section
18+00	18.00	End of Section
19+00	19.00	End of Section
20+00	20.00	End of Section
21+00	21.00	End of Section
22+00	22.00	End of Section
23+00	23.00	End of Section
24+00	24.00	End of Section
25+00	25.00	End of Section
26+00	26.00	End of Section
27+00	27.00	End of Section
28+00	28.00	End of Section
29+00	29.00	End of Section
30+00	30.00	End of Section
31+00	31.00	End of Section
32+00	32.00	End of Section
33+00	33.00	End of Section
34+00	34.00	End of Section
35+00	35.00	End of Section
36+00	36.00	End of Section
37+00	37.00	End of Section
38+00	38.00	End of Section
39+00	39.00	End of Section
40+00	40.00	End of Section
41+00	41.00	End of Section
42+00	42.00	End of Section
43+00	43.00	End of Section
44+00	44.00	End of Section
45+00	45.00	End of Section
46+00	46.00	End of Section
47+00	47.00	End of Section
48+00	48.00	End of Section
49+00	49.00	End of Section
50+00	50.00	End of Section



Station	Distance	Notes
0+00	0.00	Start of Section
1+00	1.00	End of Section
2+00	2.00	End of Section
3+00	3.00	End of Section
4+00	4.00	End of Section
5+00	5.00	End of Section
6+00	6.00	End of Section
7+00	7.00	End of Section
8+00	8.00	End of Section
9+00	9.00	End of Section
10+00	10.00	End of Section
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12+00	12.00	End of Section
13+00	13.00	End of Section
14+00	14.00	End of Section
15+00	15.00	End of Section
16+00	16.00	End of Section
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19+00	19.00	End of Section
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27+00	27.00	End of Section
28+00	28.00	End of Section
29+00	29.00	End of Section
30+00	30.00	End of Section
31+00	31.00	End of Section
32+00	32.00	End of Section
33+00	33.00	End of Section
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36+00	36.00	End of Section
37+00	37.00	End of Section
38+00	38.00	End of Section
39+00	39.00	End of Section
40+00	40.00	End of Section
41+00	41.00	End of Section
42+00	42.00	End of Section
43+00	43.00	End of Section
44+00	44.00	End of Section
45+00	45.00	End of Section
46+00	46.00	End of Section
47+00	47.00	End of Section
48+00	48.00	End of Section
49+00	49.00	End of Section
50+00	50.00	End of Section

RIGHT-OF-WAY AND TRACK MAP
BOSTON AND MAINE R.R.
SECTION 25 TO 50
HARVARD MASS.

107

EXHIBIT B

**FORM OF PURCHASE AND SALE AGREEMENT BETWEEN
MASSACHUSETTS BAY TRANSPORTATION AUTHORITY
AND
PAN AM RAILWAYS**

1. Parties

BOSTON AND MAINE CORPORATION/SPRINGFIELD TERMINAL RAILWAY COMPANY (collectively “PAR”), a _____, with a principal office at _____ (hereinafter the “SELLER” or “Pan Am”) agrees to sell and convey to the **MASSACHUSETTS BAY TRANSPORTATION AUTHORITY**, a body politic and corporate and a political subdivision of the Commonwealth of Massachusetts with a usual place of business at Ten Park Plaza, Boston, Massachusetts 02116, its successors or assigns (hereinafter the “BUYER” or the “MBTA”) and BUYER agrees to buy the following described Premises subject to the terms and conditions hereof.

Seller and Buyer are parties to the certain Trackage Rights Agreement (the “Trackage Rights Agreement”) by and among Seller and Buyer, dated _____, 2011. The property to be conveyed under this Purchase and Sale Agreement (the “Agreement”) is being conveyed by Seller to Buyer consistent with Section 6 of the Trackage Rights Agreement.

2. Premises

The premises consist of the following parcels of land, as shown on the plans attached hereto as Exhibit A, together with all improvements thereon and appurtenances thereto (the “Premises”):

[TBD]

For SELLER’s title see _____

3. Quality of Title

The Premises are to be conveyed by a good and sufficient quitclaim deed of SELLER substantially in the form attached hereto as Exhibit B (the "Deed"), conveying a good and marketable title to the same, free from all encumbrances, except:

- (a) Provisions of existing building, environmental, and zoning laws, together with any rights the public may have to the use of any roads, alleys, bridges or streets on or crossing the Premises;
- (b) Existing rights created by instruments of record in party or partition walls;
- (c) Such taxes for the current tax year as are not due and payable on the date of the delivery of the Deed, and any liens for municipal betterments assessed after the date of execution of this agreement by BUYER;
- (d) Easements, restrictions, reservations, eminent domain takings, and other matters by third parties, whether or not of record, existing on the date of execution of this agreement by BUYER, including but not limited to, tenancies, encumbrances, easements, rights, trackage use, leases, licenses, permits, privileges, agreements (including side track agreements), and freight interchange agreements or arrangements, and any state of facts that an accurate survey or prudent inspection of the Premises would disclose (collectively, "Encumbrances") provided, however, that all material Encumbrances known to SELLER have been disclosed in writing to BUYER no more than seven (7) days after the delivery of the Exercise Notice pursuant to Section 6 of the Trackage Rights Agreement, and, at the request of BUYER at any time prior to the expiration of the Due Diligence Period, the Purchase Price has been adjusted in light of any such Encumbrances. If at any time prior to the Closing, it is determined that SELLER has failed to disclose the existence of a material Encumbrance to BUYER of which SELLER had prior knowledge, then, notwithstanding any provision of the Purchase and Sale Agreement to the contrary, BUYER shall be entitled to retract its initial Exercise Notice by written notice to Seller and deliver a replacement Exercise Notice to SELLER, at which point the Purchase Price

110

- shall be re-determined in accordance with Section 6 of the Purchase and Sale Agreement;
- (e) Any encroachments or other survey matters existing as of the date of this Agreement.
 - (f) That certain Trackage Rights Agreement dated _____, 2011 (the "Trackage Rights Agreement").
 - (g) SELLER's Retained Easement, as that term is defined in the Trackage Rights Agreement, and the Telecommunications Easement (as defined below).
 - (h) any pipes, wires, poles, cables, culverts, drainage courses or systems, or other facilities on or crossing the Premises, together with the rights of any person entitled thereto to maintain, repair, renew, replace, use or remove the same, provided, however, that all material such improvements known to SELLER have been disclosed in writing to BUYER no more than seven (7) days after the delivery of the Exercise Notice pursuant to Section 6 of the Trackage Rights Agreement, and, at the request of BUYER at any time prior to the expiration of the Due Diligence Period, the Purchase Price has been adjusted in light of any such improvements. If at any time prior to the Closing, it is determined that SELLER has failed to disclose the existence of such improvements to BUYER of which SELLER had prior knowledge, then, notwithstanding any provision of the Purchase and Sale Agreement to the contrary, BUYER shall be entitled to retract its initial Exercise Notice by written notice to Seller and deliver a replacement Exercise Notice to SELLER, at which point the Purchase Price shall be re-determined in accordance with Section 6 of the Purchase and Sale Agreement; and
 - (i) general real estate taxes for the year of the Closing for the year of the Closing and subsequent years not yet due and payable.

The "Telecommunications Easement" shall be an easement reserved in the deed to be delivered by SELLER to BUYER pursuant to this Agreement of a permanent, exclusive (excepted as noted below) right of way and easement in, on, over, under, across and through the Premises for the purpose of accessing, constructing, installing, operating, maintaining, modifying, repairing, replacing, relocating and removing a

telecommunications system or other system for transmission of intelligence or information by any means, whether now existing or hereafter devised, including such poles, pipes, wires, fibers, fiber optic cables, repeater stations, attachments, appurtenances, structures or other equipment and property of any description necessary or useful for the same. The Telecommunications Easement shall include the right to freely lease, license, mortgage, assign, pledge and otherwise alienate the Telecommunications Easement. The BUYER shall in the deed covenant with the SELLER to recognize the Telecommunications Easement and, without the payment of any further consideration, to execute, acknowledge and deliver such instruments suitable for recording with the registry of deeds as the SELLER may reasonably require to acknowledge title to the Telecommunications Easement in the SELLER. The Telecommunications Easement shall include an obligation in the SELLER to reasonably repair and restore the surface of the easement area after any work, shall require the reasonable approval of the BUYER as to location of the easement and any improvements constructed therein, and limits to the extent of any surface or overhead improvements constructed pursuant to the easement. No activities, operations or improvements undertaken pursuant to the easement may materially interfere with present or future railroad operations or improvements, and the BUYER may impose reasonable conditions on any construction undertaken pursuant to the easement (such as, but not limited to, minimum load-bearing requirements, clearance requirements, etc.). SELLER shall be responsible for all costs of any construction undertaken pursuant to the easement, including the costs of any environmental remediation, and shall indemnify and hold harmless BUYER from any such costs. The exclusivity of the Telecommunications Easement shall not limit the right or ability of the BUYER (or any third party claiming by, through or under BUYER) to install, use and operate telecommunication or information systems of any nature (such as, but not limited to, railroad signal systems, positive train control (PTC) systems, ticket vending communications, security systems cameras and advertising systems) whose primary purpose is related to rail operations or passengers or the display of information on or from the Premises.

4. **Purchase Price.** The purchase price for this conveyance is _____ DOLLARS (\$ ____) (the "Purchase Price") and such other good and valuable considerations. Subject to the terms and conditions of this Agreement, the Purchase Price shall be paid as follows: On the Closing Date, the Deposit (defined below) shall be paid to SELLER and applied in reduction of the Purchase Price payable at Closing. The balance of the Purchase Price, subject to adjustments and prorations provided for in this Contract, shall be paid by BUYER, pursuant to an escrow arrangement to be agreed upon by the Parties, by wire transfer of immediately available federal funds and the agreed-upon escrow agent shall transfer such funds, together with the Deposit, by wire transfer of immediately available funds to such account(s) as SELLER may designate in writing.
- 4.1 **Deposit.** BUYER has, prior to or simultaneously with, the execution of this Agreement by SELLER, delivered ten percent (10%) of the Purchase Price (the "Deposit") to SELLER which shall hold the Deposit. Except as otherwise provided in this Agreement, should this Agreement be terminated prior to the Closing (including by BUYER in its sole discretion as a result of any due diligence investigations conducted as described herein), SELLER shall return the Deposit to BUYER.
5. **Time of Performance**
The Deed is to be delivered and the remainder of the Purchase Price paid at _____, Boston, Massachusetts, on or before _____, 2010 (the "Closing Date"). The parties may mutually agree in writing on some other place and time as the Closing Date.
6. **Survey**
If required by BUYER, SELLER shall furnish to BUYER, at BUYER'S expense: (i) an ALTA survey (the "ALTA" Survey) of the Premises to be conveyed; and (ii) a "metes and bounds" description of the Premises to be conveyed. A Registered Land Surveyor shall prepare the ALTA Survey. SELLER shall provide to BUYER said ALTA Survey and the metes and bounds description not less than fifteen (15) days before Closing.
7. **Regulatory and Permitting Approvals**
(a) BUYER is responsible for obtaining any plan required in order to record the Deed with the Registry of Deeds at BUYER's expense. If a plan is required in order to

record the Deed, SELLER agrees to provide BUYER access to the Premises, subject to reasonable access agreements including any necessary indemnifications, in order for BUYER to produce such a plan no later than fifteen (15) days prior to Closing. Closing shall be expressly contingent upon receiving all applicable regulatory approvals or exemptions for this transaction and the acceptance of all conditions imposed by such approvals or exemptions that are not unreasonably objectionable to either BUYER or SELLER. For the sake of clarity, any condition of approval or exemption which grants another freight rail carrier rights over the Premises shall be deemed to be reasonably objectionable.

(b) BUYER, at its own cost and expense, shall prepare and file with any federal, state or local regulatory agency or department that has jurisdiction over all or any part of the transaction contemplated by this Agreement, all applications, petitions, requests, notices or other necessary filings (each a "Submission to Governmental Authority"), including an appropriate application or petition for exemption or notice of exemption to the Surface Transportation Board ("STB"), and BUYER shall do and take all actions necessary and prudent to obtain the requisite approvals, other authorizations, or exemptions from the necessity of such approvals to permit consummation of the transaction contemplated by this Agreement at the earliest practicable date. BUYER shall provide to SELLER a draft of each Submission to Governmental Authority with sufficient time to permit SELLER to review, comment upon and approve the same prior to filing. SELLER shall execute and deliver such other further documentation as may be necessary in order to obtain, and shall support fully the efforts of BUYER to obtain, such governmental approvals or exemptions. BUYER at its own expense shall oppose any petition to reopen, reconsider or stay a regulatory order or authorization approving or exempting this transaction or any part thereof, and shall defend any judicial action brought by any person challenging or otherwise contesting any necessary regulatory approval or contesting the right of either party to consummate this transaction.

8. **Title/Extension to Perfect Title**

BUYER has obtained a complete review of the title to the Premises and agrees that, as of the date of execution hereof by BUYER, as to all record encumbrances, the Premises meets the requirements of Section 3 hereof. BUYER hereby waives any and all title defects existing as of the date of execution hereof by BUYER. SELLER agrees that BUYER shall have the rights with respect to defects in title matters only for defects arising after the date of execution hereof by BUYER and with respect to unrecorded encumbrances first disclosed after the date hereof as further specified in this Section 8. BUYER hereby specifically waives and agrees to hold harmless SELLER for any Claim (as hereinafter defined) arising from any deficiency in SELLER's title to, or property rights in, the Premises, or any rights held or claimed by third parties in or to the Premises other than material title defects existing as of the date of execution hereof and known to SELLER which were not disclosed to BUYER in writing prior to the execution hereof. Notwithstanding the foregoing, any instrument that constitutes a title defect and that is recorded after the execution by BUYER of this Agreement or any survey matter first arising after the execution by BUYER of this Agreement ("Late Defect") shall not be waived and SELLER shall use reasonable efforts to remove any such Late Defect and SELLER's time for performance shall be extended for a period of up to sixty (60) days to remove any such Late Defect, and SELLER shall, in all events cause to be released any mortgage or voluntary encumbrance appearing of record after the date of execution hereof by BUYER securing the payment of money that affects the Premises. "Reasonable efforts" shall be limited to those costing less than a total of Twenty - Five Thousand (\$25,000) Dollars. If, at the expiration of such extended time, SELLER fails or is unable to remove such encumbrances and defects in title to the reasonable satisfaction of the BUYER, then the BUYER may elect to terminate this Agreement. In the event of such election, all obligations of either party hereunder shall cease and this Agreement shall be null and void, except that any tort liability of BUYER that arose pursuant to Section 13 hereof shall remain.

9. **Acceptance of Deed**

BUYER shall have the election, at either the original or any extended time for performance, to accept such title as SELLER is able to deliver to the Premises in its then condition and to pay the remainder of the Purchase Price without deduction. The

acceptance of a Deed and possession by BUYER shall be deemed to be full performance and discharge hereof.

At the Closing, SELLER shall deliver the following documents in reasonably satisfactory form and substance to BUYER and BUYER's counsel, properly executed and acknowledged as required:

- (i) Quitclaim Deed, in a form acceptable to BUYER and SELLER;
- (ii) (a) such evidence of existence and authority as may reasonably be requested by BUYER; and (b) affidavits reasonably acceptable to the BUYER regarding parties legally in possession and mechanics' or materialmen's liens; and
- (iii) An original of a closing statement setting forth the Purchase Price, the closing adjustments and the application thereof at the Closing (the "Closing Statement"); and
- (iv) Such other documents as may reasonably be required to complete the transaction contemplated by this Agreement.

The Assignment Agreement in the form attached hereto as Appendix C, duly executed by SELLER and BUYER, whereby SELLER assigns to BUYER and BUYER assumes from SELLER, the leases, easements, licenses, permits, agreements, sidetrack agreements, privileges and other documents pertaining to the portion of the Premises and to be assigned to BUYER that are identified in Appendix C, provided that all such material documents, items or matters to be assigned to BUYER shall have been disclosed in writing to BUYER by SELLER prior to the delivery of the Exercise Notice pursuant to Section 6 of the Trackage Rights Agreement. If any such documents pertain partly to the Property and partly to other property now or formerly owned by SELLER, the Assignment and Assumption will assign to BUYER only the portion thereof that relates to the Premises.

Without limiting any of the other conditions to BUYER's obligations to close set forth in this agreement, the obligations of BUYER under this agreement are subject to the reasonable satisfaction of BUYER at the time of Closing of the following condition (which may be waived in whole or in part by BUYER at or prior to Closing): The Premises shall be materially in the same condition as it was in on the date of execution of this Agreement by BUYER, excepting therefrom: (i) reasonable use and wear (where reasonable use and wear and tear includes the present uses of the Premises conducted in accordance with applicable law); ii) minor damage to above-ground structures not

intentionally caused by SELLER; and (iii) any alterations or damage to the Premises caused by or attributable to BUYER or any party acting on BUYER's behalf.

If on the Closing Date, the conditions of Section 9 have not been satisfied, then, at BUYER's option, all obligations of either party hereunder shall cease and this Agreement shall be null and void.

Closing shall be expressly contingent upon the Quitclaim Deed containing the language acceptable to BUYER and SELLER incorporating the appropriate terms and conditions from the Trackage Rights Agreement and that certain deed between the Boston and Maine Corporation and the SELLER dated December 24, 1976.

As soon as practicable after closing, BUYER shall record the Quitclaim Deed delivered by SELLER in the jurisdiction(s) in which the Premises is located.

10. No Brokers

BUYER hereby represents and warrants that it has not dealt with any broker who is entitled to a commission or fee in connection with the conveyance contemplated hereby, and covenants to pay, hold harmless and indemnify SELLER from and against any and all claims for any such commissions or fees. SELLER hereby represents and warrants that it has not dealt with any broker or other entity who is entitled to a commission or fee in connection with the conveyance contemplated hereby, and SELLER covenants to pay, hold harmless and indemnify BUYER from and against any and all claims for any such commissions or fees. The representations, warranties, and agreements contained in this paragraph shall survive the delivery of the deed and/or any expiration or termination of this agreement.

11. Condition of the Premises

SELLER hereby expressly disclaims any warranties of any nature, express or implied or otherwise, except as expressly set forth herein. Except as is provided in this Section 11, below, BUYER hereby acknowledges that SELLER is selling and BUYER shall accept the Premises in an "as is" condition and with "all faults" as of the Closing Date, including environmental conditions, without any warranty or representation by, and without recourse to, SELLER, its agents or representatives whatsoever relating to the Premises.

BUYER further acknowledges and confirms that BUYER is not relying on any representation or inducement which was or may have been made or implied by SELLER or any other party acting on behalf of SELLER with respect to the Premises, including, without limitation, the fitness of the Premises for any proposed use, the suitability of the Premises for any particular purpose, or as to the ability of the BUYER to obtain any necessary permits or approvals.

12. Post-Closing

After Closing, BUYER shall be responsible for:

(a) All Claims, except to the extent otherwise allocated by applicable provisions of the Trackage Rights Agreement or caused by the gross negligence or willful misconduct of SELLER, that arise out of, in respect to, or in connection with, the physical condition, safety, utility, adequacy, marketability, value, suitability or fitness of the Premises conveyed to BUYER, or any portion thereof, or any defects therein, including without limitation (and except as set forth above), Claims relating to (i) public or private streets, bridges, underpasses or other crossings, (ii) the removal or remediation of contaminating materials or substances, (iii) the demolition of structures or abatement of nuisances, (iv) the flow or obstruction of surface or subsurface waters, (v) the stability of the soil on, above, over, or adjacent to the Premises, (vi) support for, or by, adjacent property or the collapse of soil or other materials or buildings onto adjacent property, and (vii) the construction, repair, rehabilitation, alteration, maintenance, or use of the Premises;

(b) Claims, except to the extent otherwise allocated by applicable provisions of the Trackage Rights Agreement or caused by the gross negligence or willful misconduct of SELLER, that are imposed by the regulations or orders of any regulatory or licensing agency, or by agencies or governmental bodies responsible for preserving the public health or safety, the environment, natural resources, wildlife, historic sites, vegetation, public parks or forests or wetlands, other than those imposed prior to Closing and not otherwise allocated according to this Agreement;

(c) Claims, except to the extent otherwise allocated by applicable provisions of the Trackage Rights Agreement or caused by the gross negligence or willful misconduct of SELLER, that are imposed by building or construction codes, or licensing, subdivision or zoning requirements, including Claims relating to licensing, permits, notices, and fees,

other than those imposed prior to Closing and not otherwise allocated according to this Agreement; and

(d) Except to the extent otherwise allocated by applicable provisions of the Trackage Rights Agreement or caused by the gross negligence or willful misconduct of SELLER, BUYER shall have the responsibility allocable by law to the owner of the Premises with respect to all Claims arising out of personal injury to or the death of persons or loss of, or damage to, property (including the property of the parties hereto) occurring on or about the Premises after Closing.

Notwithstanding the foregoing, BUYER shall not be responsible for any Claims related to the existence of, or the use by or occupancy of the Telecommunications Easement by SELLER or any party claiming by, through or under SELLER.

13. Environmental Investigation

The BUYER, at BUYER'S expense, may complete a Phase One environmental investigation of the Premises upon execution of this Agreement by BUYER. Such investigation, if conducted, must be completed within ninety (90) days after BUYER's execution of this Agreement. BUYER shall waive its right to conduct or complete such investigation if it is not completed within said time period. If requested by the SELLER in writing and not otherwise, BUYER shall submit to the SELLER investigatory reports obtained by the BUYER within one (1) week of SELLER's written request. BUYER hereby indemnifies and holds harmless SELLER and agrees to defend SELLER and release and save SELLER harmless from and against any and all liabilities, losses, damages, costs, expenses (including reasonable attorneys' expenses and fees), causes of action, suits, claims, demands or judgments of any nature whatsoever (collectively the "Claims") to the extent due to the actions of BUYER or its employees, contractors or consultants ("Buyer Personnel") while on the Premises to perform an environmental investigation permitted in this Section 13 or to the extent due to sickness of, injury to or death of Buyer Personnel related to the condition (including the environmental condition) of the Premises while Buyer Personnel were on the Premises to perform an environmental investigation permitted in this Section 13, except and to the extent that the Claims arose because of SELLER's gross negligence or willful misconduct (it being agreed that it shall not be "grossly negligent" for SELLER to allow access to the Premises in its "As Is" condition). In the event that the Closing occurs, and not

otherwise, BUYER shall be responsible for any voluntary or required remediation arising as a result of BUYER's environmental investigations and performed prior to the Closing Date. For clarification, any voluntary or required remediation performed after Closing shall also be done at BUYER's expense, without recourse to SELLER. Prior to undertaking such Phase One investigation, and again prior to the Closing Date, BUYER shall provide to SELLER reasonable evidence of BUYER's ability and authority to provide each of the indemnifications set forth in this Section.

Prior to entry on the Premises pursuant to this Section 13, BUYER (or its environmental consultant) shall provide SELLER with a certificate or certificates of insurance covering all days that BUYER and BUYER's consultants and contractors will be on the Premises before the Closing Date, evidencing the insurance of the activities permitted hereunder, and BUYER's covenant of indemnification hereinabove, with companies that are reasonably acceptable to SELLER as stated below, in which BUYER and others hereinafter specified are additional insureds as their interests may appear and which provides coverage as stated below.

(a) Commercial General Liability Insurance

Insuring BUYER, SELLER, the Premises and all activities allowed hereunder as well as BUYER's indemnification obligations contained in this Section 13 with minimum liability coverage for personal injury, bodily injury and property damage with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in aggregate. Umbrella liability coverage with limits of not less than Five Million Dollars (\$5,000,000.00) covering all work performed must also be provided. Such insurance shall be written on an occurrence basis as opposed to a claims made basis. These policies shall name SELLER as an additional insured.

(b) Automobile Liability Insurance

Automobile liability insurance shall be provided by BUYER with limits of not less than One Million Dollars (\$1,000,000.00) covering all owned, non-owned, hired, rented or leased vehicles of BUYER and its consultants and

contractors that are used in the activities permitted hereunder. The policy shall contain a waiver of subrogation clause in favor of SELLER.

(c) Worker's Compensation Insurance

Worker's Compensation Insurance insuring all persons employed by BUYER in connection with any work done on or about the Premises with respect to which claims for death or bodily injury could be asserted against the BUYER or the Premises with limits of liability of not less than those required by Massachusetts General Laws Chapter 152, as amended. The policy shall contain a waiver of subrogation clause in favor of SELLER. Each of BUYER's contractors and consultants shall have similar policies covering their employees.

14. Leases, Licenses, Uses and Occupancies

SELLER shall yield-up full possession of the Premises on the Closing Date free and clear of all tenants, parties in possession and/or occupants, except for those listed in the attached Exhibit C. Notwithstanding the foregoing, BUYER shall have no claim against SELLER with respect to any person, firm, corporation or other entity that has a non-material interest in the Premises of which SELLER has no knowledge.

15. Beneficiaries.

Except as specifically otherwise provided herein, this Agreement is intended for the sole benefit of the parties hereto. Nothing in this Agreement is intended to or may be construed to give any person, firm, corporation, or other entity, other than the parties hereto, any rights pursuant to any provision or term hereof, and all provisions and terms of this Agreement are and shall be for the sole and exclusive benefit of the parties to this Agreement.

16. Buyer's Default Damages

Once BUYER has executed this agreement, BUYER shall be in default for failure to purchase the Premises if, for any reason other than failure of SELLER to deliver title pursuant to Section 3 above or to fulfill its obligations set out in this agreement, BUYER fails to purchase the Premises. If BUYER shall be in default

for failure to purchase the Premises, SELLER'S remedy shall be to retain the Deposit and, to the extent not covered by retention of the Deposit, an amount equal to Seller's costs of the appraisal and all other costs associated with the process of preparing for the sale as described in Section 6 of the Trackage Rights Agreement in full settlement any and all claims arising under, or in any way related to, this agreement and with no further recourse against Buyer, either in law or in equity. This Section 16 does not apply to any other damages SELLER may have suffered as a result of BUYER'S default under Section 10 or 13 of this agreement. Notwithstanding anything contained herein to the contrary, if BUYER fails to fulfill any of its obligations set forth in this agreement (other than BUYER's obligation to purchase the Premises as set forth in this agreement), such failure shall in no event be a default hereunder unless SELLER has given BUYER written notice of such failure and BUYER fails to remedy such failure within ten (10) days of receiving such written notice.

17. Construction of Agreement

The contracting parties agree that this is a Massachusetts contract. It is mutually agreed that any oral representation made by either party prior to the signing of this agreement is null and void.

18. Notices

Any notice or other communication in connection with this agreement shall be deemed given when received or when delivered by messenger or overnight mail or upon attempted delivery if delivery is not accepted. Such notices shall be in writing and shall be deemed to have been properly given when deposited in registered or certified United States mail, return receipt requested, addressed, as described in Paragraph 1 of this agreement (except with respect to SELLER such notice shall be sent to the MBTA Director of Real Estate at such address) or when delivered by messenger or overnight mail service to the correct addressee. In addition, a duplicate notice from BUYER shall be sent in the same manner as the notice to SELLER to SELLER'S _____ and a duplicate notice from SELLER shall be sent in the same manner as the notice to BUYER and to BUYER'S

representative, _____. Either party may change the address(es) at which notices are to be received by notice given as set forth above.

19. Authority of Signatory

If BUYER or SELLER executes this agreement by agent or representative, such agent or representative hereby warrants and represents to SELLER or BUYER (as applicable) that (s)he is authorized to execute, acknowledge, and deliver this agreement on behalf of such party and to thereby bind such party to the same. This warranty shall survive the delivery of the Deed.

20. Severability

If any term of this agreement or the application thereof to any person or circumstance shall, at any time, or to any extent be deemed invalid or unenforceable, the remainder of this agreement and the application of such term to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected, provided that the benefits due to and burdens imposed on either party are not thereby materially altered.

21. No Waiver

No delay or omission on the part of either party in exercising its rights under this agreement shall constitute a waiver of such right or any other right under this agreement. Also, no waiver of any such right on one occasion shall be construed as a waiver of it on any other occasion.

22. Entire Agreement

This agreement and the Trackage Rights Agreement constitute the entire agreement between the parties relating to the subject matter hereof, supersedes all prior oral or written offers, negotiations, agreements, understandings, and courses of dealing between the parties relating to the subject matter hereof and is subject to no understandings, conditions, or representations other than those expressly stated herein. This agreement may only be modified or amended by a writing, signed by both parties, that specifically states that it modifies or amends this agreement.

23. Assignment

This agreement shall not be assigned except upon written consent of both parties, to be granted or withheld in the sole discretion of each. If assigned, this agreement shall be binding upon the parties hereto and their respective successors and assigns.

24. Survival of Terms

All representations (as modified pursuant to the provisions hereof), warranties, covenants, terms, conditions, stipulations, and provisions of this Agreement shall survive Closing and be binding upon and inure to the benefit of and be enforceable by, the Parties, and their successors and permitted assigns.

25. Apportionments

(a) Real estate transfer taxes and sales or use taxes, if any, imposed by law shall be borne and paid by BUYER. For the year during which the Closing occurs, rents, income, and other revenues and expenses pertaining to the Premises that are the subject of the Closing from leases, easements, licenses, permits, agreements, privileges, and other documents, if any, the rights and obligations to which are to be assigned by SELLER and assumed by BUYER, as well as real property taxes and utility charges, shall be apportioned between the parties as of the date of Closing, to the extent such rents, income, revenues, expenses, taxes and charges are accruing both before and after the date of Closing, regardless of the date assessed, paid or payable; provided, however, that any real property taxes will be apportioned on a daily basis. Any installments or special taxes or assessments levied, due and unpaid on the Premises prior to Closing shall be paid by SELLER. In respect to any payments made by or to either party, whether before or after closing, appropriate remittances shall be made promptly to assure that such items are apportioned as of the date of closing.

(b) At Closing, BUYER shall sign, and deliver to SELLER for mailing, a notification letter in the form attached hereto as Appendix H, requesting all persons as identified in said letter providing electric, gas, water, telephone or other utility services to the Premises or any part thereof, to transfer such services and billing therefor to BUYER, effective at Closing, and to issue a final bill to SELLER for such utility service. BUYER shall refund to SELLER any payments previously made by SELLER for utility services furnished or to be furnished after closing.

(c) All recording costs and filing fees required to be paid with respect to documents under this Agreement, and the cost of a survey, if one is required, shall be the sole responsibility of BUYER.

(d) Each party hereto shall be entitled to avail itself of any exemption from the payment of any taxes or fees that it may enjoy.

IN WITNESS WHEREOF, the said parties hereto set their hands and seals on the day and year written below the party's signature

SELLER	BUYER
[Pan Am Railways]	MASSACHUSETTS BAY TRANSPORTATION AUTHORITY
	By: _____ Its: _____
	Date of Execution: _____
	Approved as to Form _____ General Counsel

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X

135

EXHIBIT A

X

EXHIBIT C

DIRECT COSTS BILLABLE

Controlling Party shall only be reimbursed for Direct Costs incurred in the provision of Force Account Work. Direct Costs may be billed in five component categories: labor costs, specified employee benefit costs, the cost of materials expended, contracted services, and other identifiable and auditable costs. The estimated cost of each category must be identified on each Force Account estimate submitted and shall be of sufficient detail for the Requesting Party to review the appropriateness of the cost to the project. Requesting Party may reject any cost submitted that does not appear appropriate or in compliance with the terms of this Agreement.

The five component categories for Direct Costs are described below:

1. Labor costs shall include the costs of salaries and wages earned by Controlling Party Personnel directly engaged in providing Force Account Work, as well as vacation and holiday pay for those Controlling Party Personnel. For Controlling Party Personnel that are engaged full-time in providing services under this Agreement, the Direct Costs for labor shall include the costs of labor salaries and wages for overtime, if any, that is only incurred directly for the provision of Force Account Work. The actual cost of vacation payment pay of Controlling Party Personnel engaged in the authorized Force Account Work during the period in which such services are being provided pursuant to this Agreement shall be included as Direct Costs. Vacation pay, owed to such Controlling Party Personnel in the year subsequent to the termination of this Agreement to the extent that such vacation pay was accrued in relation to an authorized Force Account project during the Term of this Agreement shall not be included as Direct Costs.
2. Employee benefit costs shall include insurance for disability, sickness, health and dental coverage, FELA and worker's compensation, Railroad Retirement and other employment taxes, as well as life insurance and travel insurance.
3. Material costs shall include the costs of all materials, whether issued from the Agreement Services inventory (at Requesting Party's system average price) or purchased specifically for use in providing the authorized Force Account Work. In the event that PAR is the Controlling Party, PAR shall have the option to request that the MBTA and/or the Requesting Party acquire the materials at no cost to PAR.
4. Contracted services shall include payments to third parties selected as set out below for provision of goods or services required for the authorized Force Account Work. Equipment rental or leasing shall not be reimbursed as a Direct Cost when Requesting Party equipment was available.
 - (a) For goods and services with a total estimated value of less than \$2,500, Controlling Party shall procure such goods and services as it sees fit.

(b) For goods and services with a total estimated value of between \$2,500 and \$25,000, Controlling Party shall obtain telephone or fax price quotes from multiple vendors.

(c) For goods and services with a total estimated value of more than \$25,000, Controlling Party shall conduct a formal competitive bid process.

5. Other costs shall include expenses necessary to effectively provide the Force Account Work. Examples of such costs are:

Office Supplies & Equipment

Printing & Photography

Service Disruption Expenses, including Alternate Transportation

Per Diem Payments in Lieu of Travel Expense

6. Equipment Costs shall include the actual cost of equipment at the applicable federal Blue Book rate for all such equipment used in a project.
7. Salvage Costs In the event that PAR elects to retains salvage from a project, the cost of that salvage retention shall not be a billable cost, nor shall PAR be required to credit the cost of the project for the value of such salvage retained.

Exhibit DFreight Main Line

WRML - Plaistow	Mile Post 274.65 to Mile Post 272.00	FRA Class IV	{passenger/freight}
Lowell Branch	CPF-LJ to CPF-297	FRA Class II	{freight}
	CPF-297 to CPF-LO	FRA Class I	{freight}
Stoney Brook	CPF-NC to CPF-303	FRA Class I	{freight}
	CPF-303 to CPF312	FRA Class II	{freight}

W. N. & P - Worcester Branch

Worcester Main	Harvard to Mile Post 5	FRA Class II	{freight}
	Mile Post 5 to Barber {2.92}	FRA Class I	{freight}

**FIRST AMENDMENT TO THE
2011 PAR TRACKAGE RIGHTS AGREEMENT**



2014 00044352

Bk: 28596 Pg: 51 Page: 1 of 59
Recorded: 11/03/2014 02:56 PM

FIRST AMENDMENT TO 2011 TRACKAGE RIGHTS AGREEMENT
BY AND AMONG
THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY AND BOSTON AND
MAINE CORPORATION AND SPRINGFIELD TERMINAL RAILWAY COMPANY

This First Amendment (the "Amendment") to the 2011 Trackage Rights Agreement dated as of January 10, 2011 (the "Agreement") is made and entered into on October 31, 2014 by the Massachusetts Bay Transportation Authority ("MBTA"), a body politic and corporate and a political subdivision of the Commonwealth of Massachusetts, established under the provisions of Massachusetts General Laws, Chapter 161A, as amended, and with a principal place of business at 10 Park Plaza, Boston, Massachusetts 02116, and the Boston and Maine Corporation, a Delaware corporation ("B&M"), and Springfield Terminal Railway Corporation, a Vermont corporation ("STRC") (B&M and STRC collectively, "PAR" and the MBTA and PAR collectively, the "Parties"), in order to memorialize the agreement of the Parties in connection with the amendment of the Agreement.

Any capitalized terms used but not defined herein shall have the meanings set forth in the Agreement.

WHEREAS, Section 22(q) of the Agreement provides that the Parties may amend the Agreement by written agreement from time to time during its term, and the Parties desire to amend the Agreement as set forth in this Amendment;

NOW THEREFORE, in consideration of the terms, conditions, and mutual promises set forth in the Agreement and this Amendment, the Parties hereby agree as follows:

The Agreement is hereby amended as follows:

1. In Section 1, the definition of "PAR Freight Rail Properties" is hereby deleted and replaced with the following:

""PAR Freight Rail Properties" shall mean Level 1 Rail Properties and Level 2 Rail Properties. The PAR Freight Rail Properties shall mean the real property owned by PAR described on Exhibit A hereto and shown on the valuation plans attached as part of such Exhibit A, with the exception of the areas marked with cross-hatching on such valuation plans, provided, however, that the definition of PAR Freight Rail Properties shall include, be modified by, and be subject to the handwritten notes on such valuation plans signed by representatives of both PAR and the MBTA. For the sake of clarity, property acquired by PAR subsequent to the Effective Date is not included in the PAR Freight Rail Properties."
2. In Section 2, the following phrase is hereby deleted: ", with the exception of the Worcester Main Line property described on Exhibit A, which shall be considered a PAR Freight Rail Property but not a Level 1 Rail Property or a Level 2 Rail Property".

3. In Section 4, the following is hereby added as the last sentence of the first paragraph:

“The rights granted by this Section 4 shall be in effect for so long as this Agreement is in effect, provided, however, that the MBTA’s right to elect to conduct Revenue Service on the Concord Main Line (as described on **Exhibit A**) shall be limited to ten (10) years from the Effective Date of this Agreement unless the MBTA or another public entity has, prior to the expiration of such ten (10)-year period, commenced a study to determine the line’s capacity to support revenue service, a service development plan, preliminary design or environmental permitting, or taken such other significant steps to advance the provision of Revenue Service on such property, in which event the rights granted by this Section 4 with respect to the Concord Main Line shall be in effect for so long as this Agreement is in effect; and provided further, however, that as set forth in Section 6, the MBTA shall have no Option to Purchase with respect to the Concord Main Line.”

4. In Section 6.1, the first sentence is hereby deleted and replaced with the following:

“PAR hereby grants to the MBTA an option (the “**Option to Purchase**”) to purchase, subject to, and conditioned upon the receipt of, all applicable regulatory approvals, all or any portion of the PAR Freight Rail Properties with the exception of the Concord Main Line upon the terms and conditions set forth in this Section and subject to PAR retaining a Retained Easement upon any such portion of the PAR Rail Properties acquired by the MBTA pursuant to the Option to Purchase.”

5. In Section 7.1, the following phrase is hereby deleted: “(or, in the case of the Worcester Main Line property described on Exhibit A, a PAR Freight Rail Property)”.
6. The table included within **Exhibit A** to the Agreement is hereby replaced with the table attached to this Amendment as Exhibit A, and the valuation plans attached to this Amendment as Exhibit A are hereby added to the plans included within **Exhibit A** to the Agreement.
7. **Exhibit D** to the Agreement is hereby replaced with the document attached to this Amendment as Exhibit B.

The 2011 Trackage Rights Agreement amended by this Amendment is recorded in the Middlesex South (MA) District Registry of Deeds in Book 56429, Page 120; the Middlesex North (MA) District Registry of Deeds in Book 24760, Page 1; The Essex North (MA) Registry of Deeds in Book 12397, Page 205; the Worcester (MA) District Registry of Deeds in Book 47232, Page 52; and the Rockingham (NH) Registry of Deeds in Book 5204, Page 2125.

[Signatures on following page.]

IN WITNESS WHEREOF, the MBTA and PAR have executed this First Amendment to the 2011 Trackage Rights Agreement on the date above first written.

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

By: Beverly A. Scott
Beverly A. Scott, Ph.D
General Manager and Rail & Transit Administrator

Date: 10/31/14

Approved as to Form:

By: Paige Scott Reed
Paige Scott Reed
General Counsel, MassDOT and MBTA

Date: 10/31/14

SPRINGFIELD TERMINAL RAILWAY COMPANY

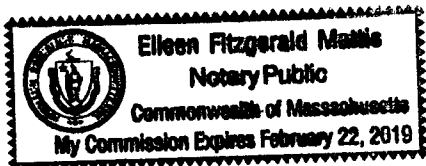
By: _____
Name:
Title:

BOSTON AND MAINE CORPORATION

By: _____
Name:
Title:

COMMONWEALTH OF MASSACHUSETTS, COUNTY OF Suffolk, SS.:

On this 31st day of October, 2014, personally appeared before me the above-named Dr. Beverly Scott, an authorized signatory of the Massachusetts Bay Transportation Authority, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding instrument and acknowledged that he/she signed it voluntarily for its stated purpose as an authorized signatory of such entity and as the free act and deed of said entity.



Name: Eileen Fitzgerald Mattis
Notary Public Eileen Fitzgerald Mattis
My Commission Expires: 2/22/19

COMMONWEALTH OF MASSACHUSETTS, COUNTY OF _____, SS.:

On this ____ day of October, 2014, personally appeared before me the above-named _____, an authorized signatory of Springfield Terminal Railway Company, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding instrument and acknowledged that he/she signed it voluntarily for its stated purpose as an authorized signatory of such entity and as the free act and deed of said entity.

Name: _____
Notary Public

COMMONWEALTH OF MASSACHUSETTS, COUNTY OF _____, SS.:

On this ____ day of October 2014, personally appeared before me the above-named _____, an authorized signatory of Boston and Maine Corporation, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding instrument and acknowledged that he/she signed it voluntarily for its stated purpose as an authorized signatory of such entity and as the free act and deed of said entity.

Name: _____
Notary Public

IN WITNESS WHEREOF, the MBTA and PAR have executed this First Amendment to the 2011 Trackage Rights Agreement on the date above first written.

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

By: _____
Beverly A. Scott, Ph.D
General Manager and Rail & Transit Administrator

Date: _____

Approved as to Form:

By: _____
Paige Scott Reed
General Counsel, MassDOT and MBTA

Date: _____

SPRINGFIELD TERMINAL RAILWAY COMPANY

By: David G. Fink
Name: DAVID A. FINK
Title: President

BOSTON AND MAINE CORPORATION

By: David G. Fink
Name: DAVID A. FINK
Title: President

COMMONWEALTH OF MASSACHUSETTS, COUNTY OF _____, SS.:

On this ____ day of October, 2014, personally appeared before me the above-named _____, an authorized signatory of the Massachusetts Bay Transportation Authority, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding instrument and acknowledged that he/she signed it voluntarily for its stated purpose as an authorized signatory of such entity and as the free act and deed of said entity.

Name:
Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS, COUNTY OF Middlesex, SS.:

On this 29 day of October, 2014, personally appeared before me the above-named David A. Fink, an authorized signatory of Springfield Terminal Railway Company, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding instrument and acknowledged that he/she signed it voluntarily for its stated purpose as an authorized signatory of such entity and as the free act and deed of said entity.

Name: Pamela J. Hitchcock
Notary Public
My Commission Expires:



COMMONWEALTH OF MASSACHUSETTS, COUNTY OF Middlesex, SS.:

On this 29 day of October 2014, personally appeared before me the above-named David A Fink, an authorized signatory of Boston and Maine Corporation, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding instrument and acknowledged that he/she signed it voluntarily for its stated purpose as an authorized signatory of such entity and as the free act and deed of said entity.

Name: Pamela J. Hitchcock
Notary Public
My Commission Expires:

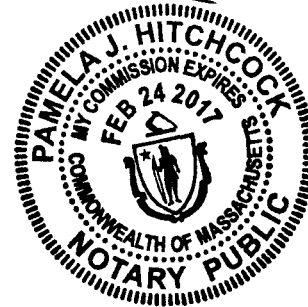
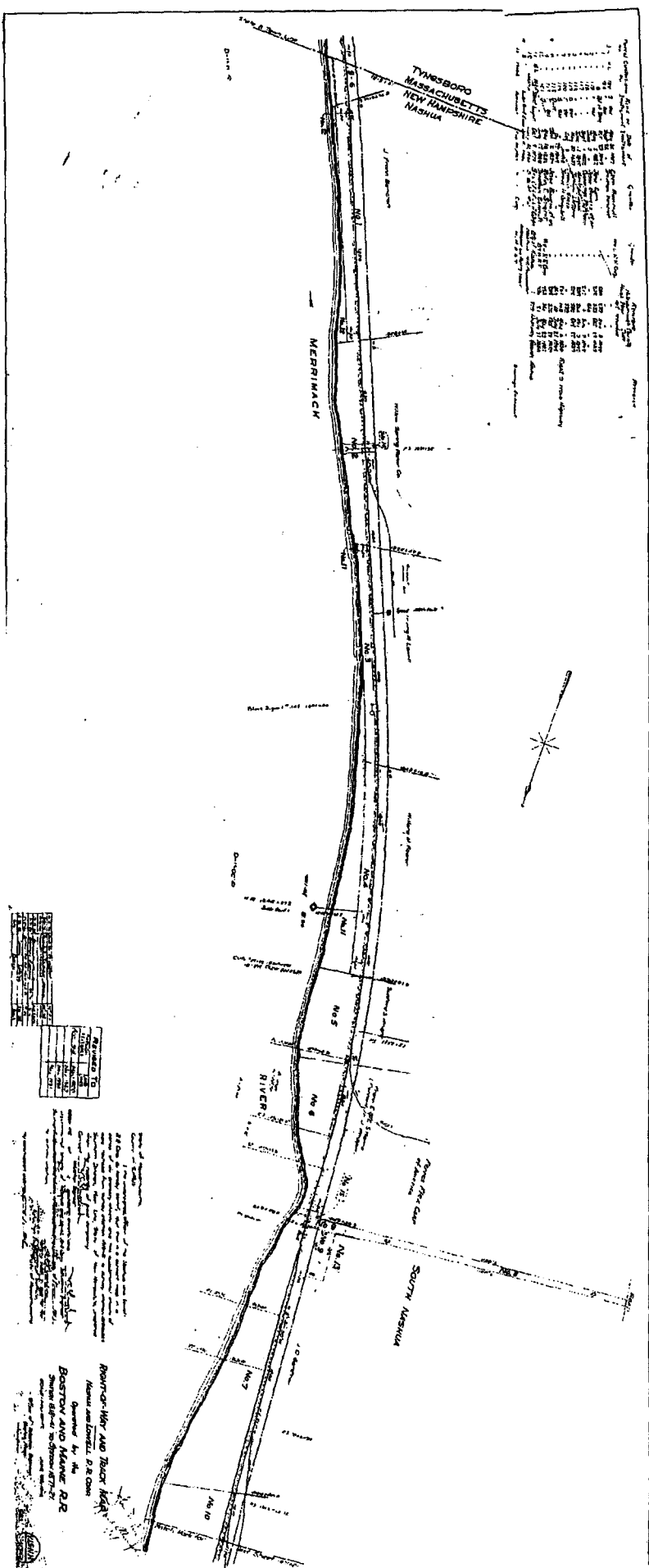
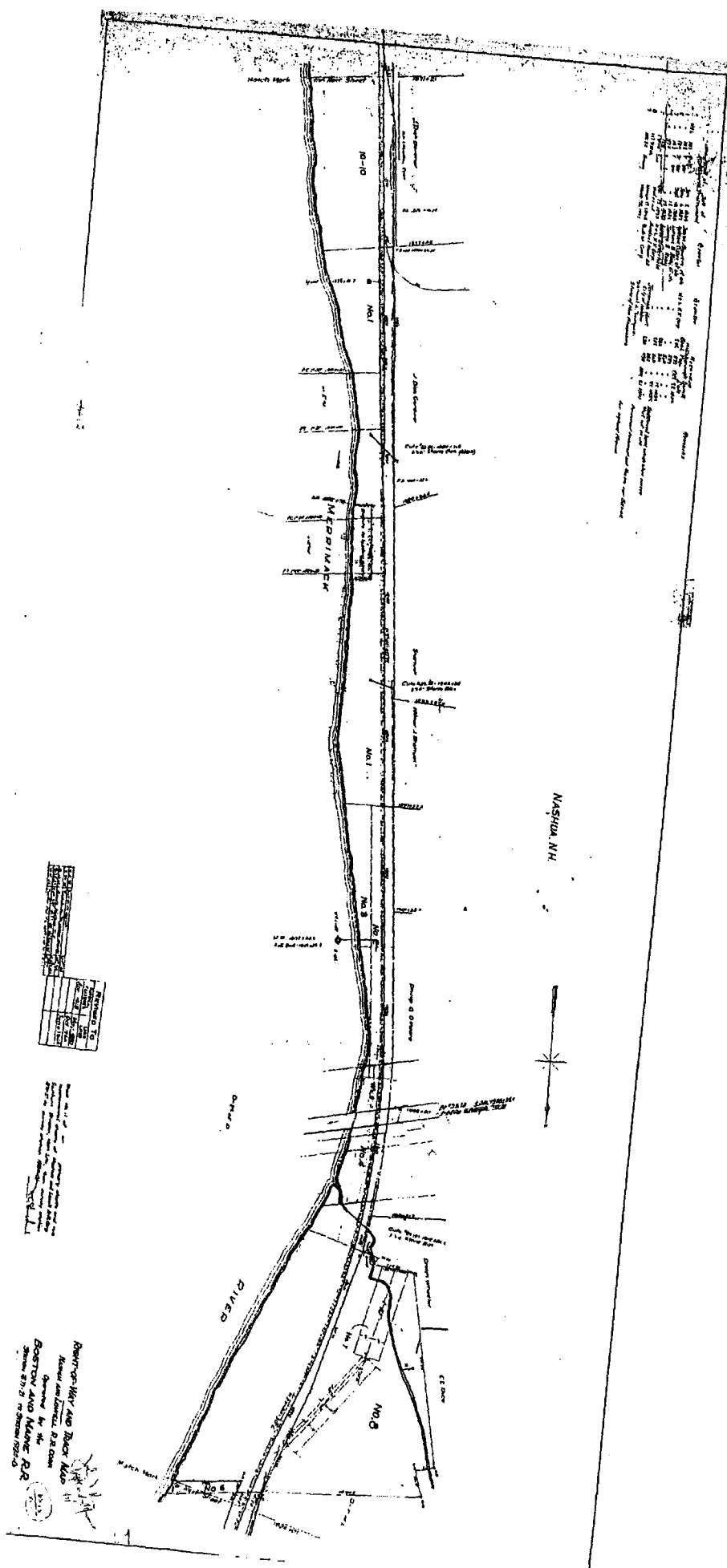


EXHIBIT A

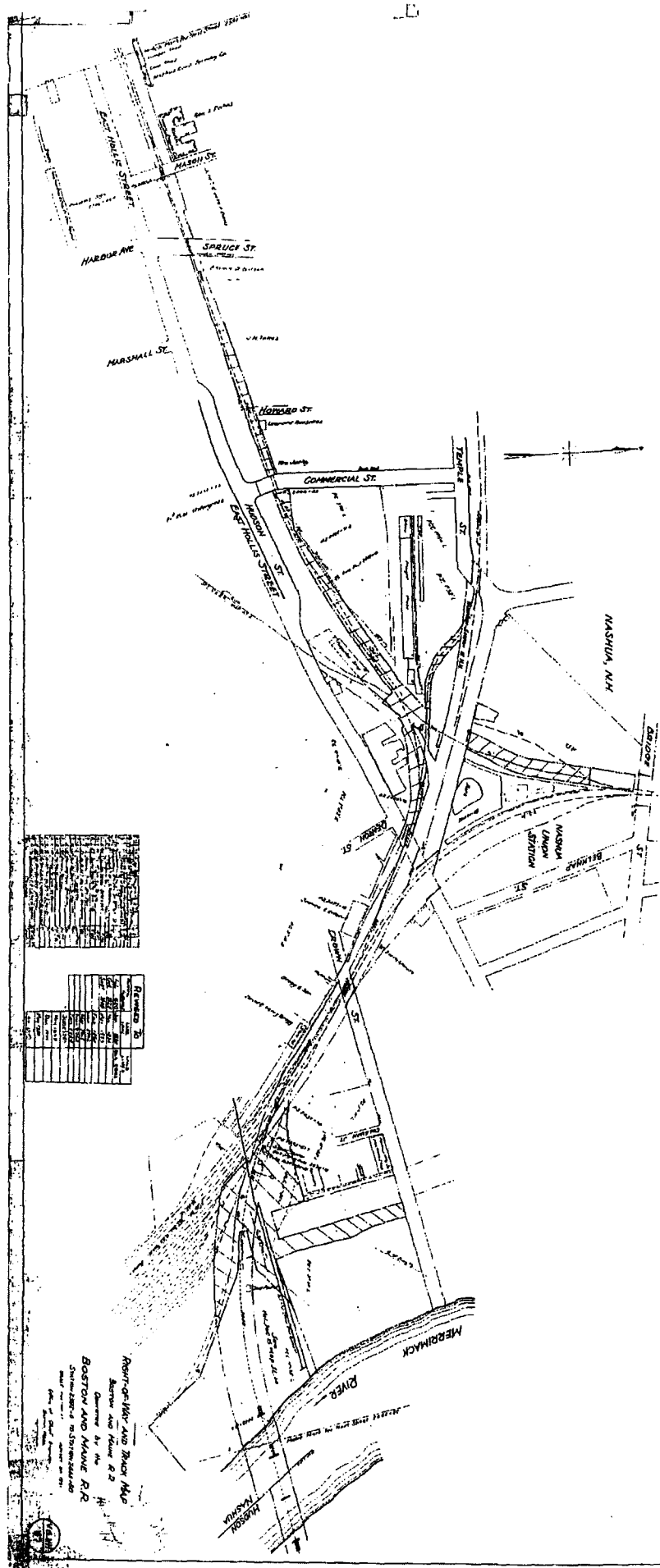
RAIL PROPERTY	FROM	TO	CATEGORY OF RAIL PROPERTY (SEE SECTION 2)
1. <u>Plaistow Station (Layover) Service</u>	The MBTA owned Western Route Main line property at the Massachusetts/New Hampshire Border at approximate mileage MBTA- 36.41- PAR- 274.65 V.S. 2 - Map 35 - Eng. Sta. 1821+67	A point east of the CPF- 273 interlocking in Plaistow New Hampshire at Freight Main Line approximate mileage PAR-MP-272.00 (MBTA-MP-B39) VS.2 – Map 37 – Eng. Sta. 2060+11	Level 1 Rail Properties
2. <u>Lowell Branch Service</u>	The MBTA owned Lowell Junction (CPF-LJ-19.57) on the MBTA Western Route Main Line (WRML) via both the east (MP19.57) and west (MP19.31) legs of the Lowell Junction Wye V.S. 9 – Map 1 – Eng. Sta. 0+0	The MBTA owned property at CPF-BY (MBTA-24.66 – PAR- 298.50) “Bleachery” on the MBTA’s New Hampshire Main line at approximate mileage 24.68 V.S. 9 - Map 8a – Eng. Sta. 19+74.2	Level 1 Rail Properties
3. <u>Stoney Brook Branch</u>	The MBTA’s New Hampshire Main Line property at North Chelmsford via both the south leg of the wye (CPF-NC) approximate mileage MBTA 28.55 PAR 302.55 and via the north leg CPN-1- MBTA 28.91 PAR 0.91 (Northern ML mileage) V.S. 16 – Map 14-Eng. Sta. 696+16	The Willows Interlocking (CPF-WL) on the MBTA’s Fitchburg Main line at approximate mileage MBTA-33.72 PAS-313.77 in Ayer. V.S. 16-Map-3-Eng. Sta.128+00	Level 1 Rail Properties

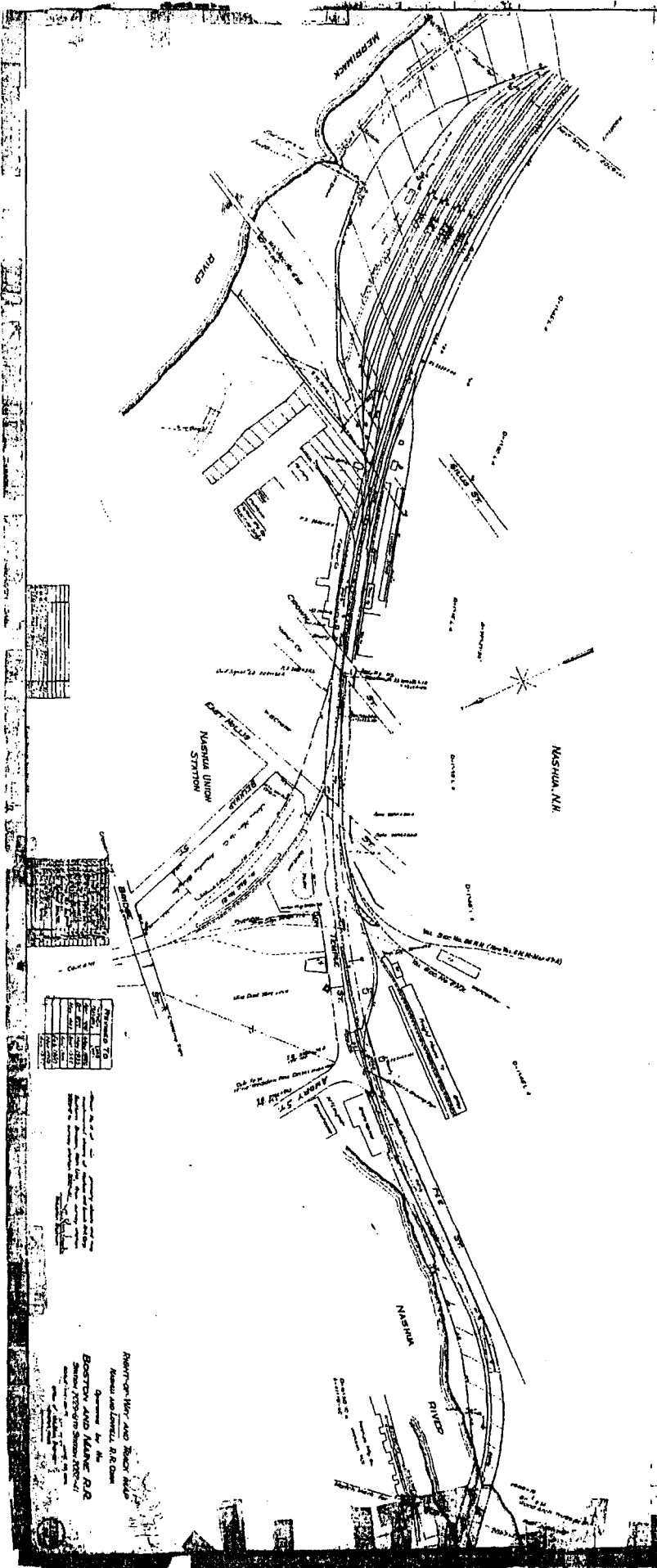
RAIL PROPERTY	FROM	TO	CATEGORY OF RAIL PROPERTY (SEE SECTION 2)
4. <u>Worcester Main Line Service</u>	A location known as Harvard that represents the Pan Am Southern / Pan Am Railways division point at approximate WN&P mileage 25.70 V.S. 6 -Map 26-Eng. Sta.1341+50	A railroad station location now known as BARBER at approximate mileage 2.92 and further any Pan Am rights that may exist into Worcester Union Station approximate mileage 0.00 V.S. 6 – Map 1	Level 1 Rail Properties
5. <u>New Hampshire Main Line (aka Concord Main Line)</u>	The MBTA owned New Hampshire Main Line at the New Hampshire / Massachusetts state line in Tyngsboro at approximate mileage MBTA-34.46 PAS-6.46 V.S. 15-Map 9-Eng Sta 34+46	The end of Pan Am ownership and the beginning of the New Hampshire State ownership of the rail line. V.S. 32.1-Map 8- Eng.Sta.370+78+/-	Level 1 Rail Properties

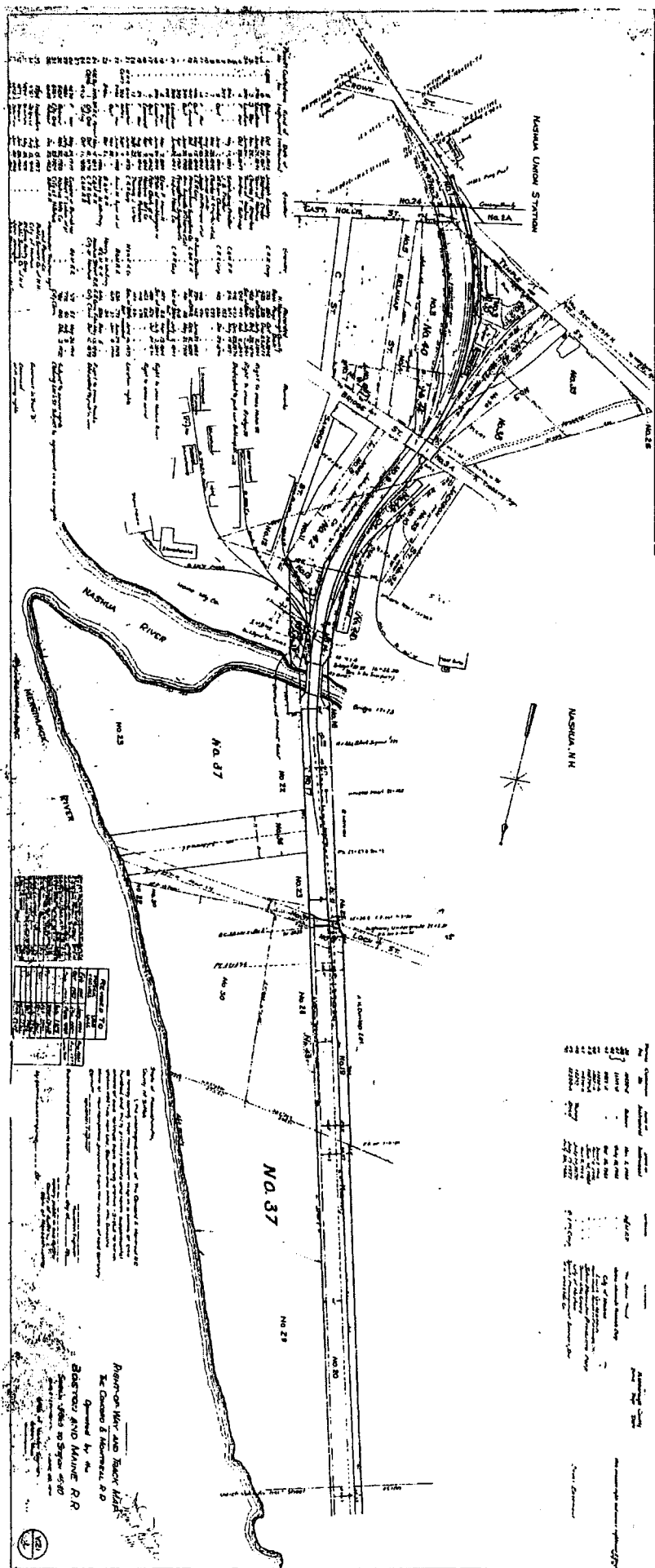




Station	Distance	Remarks
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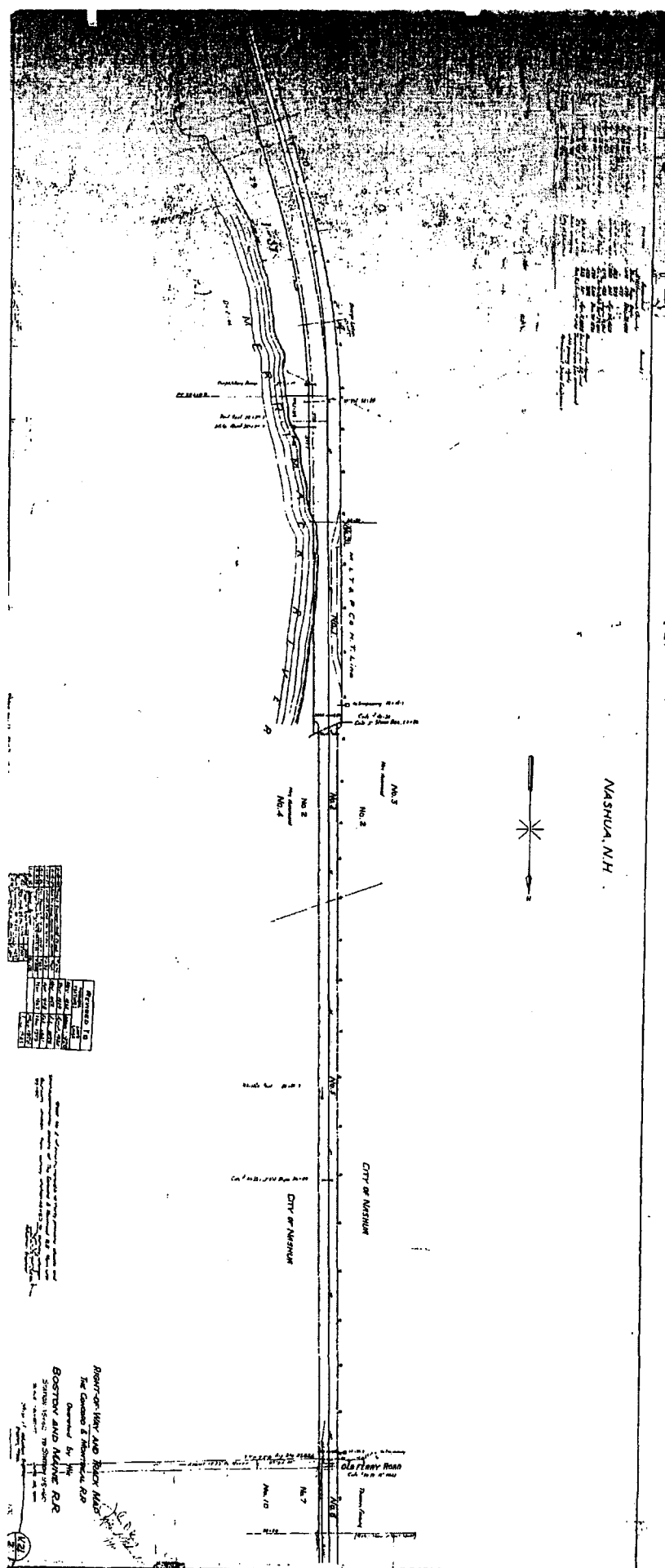


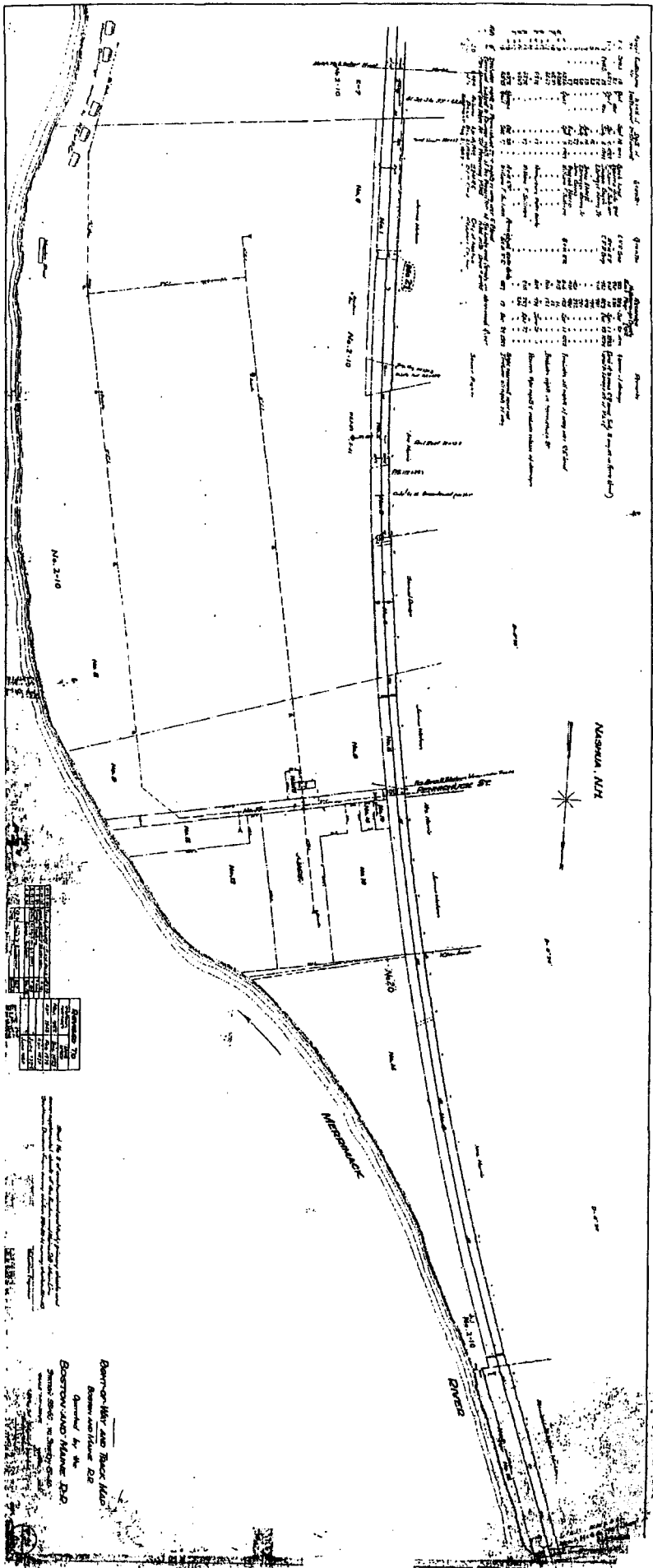


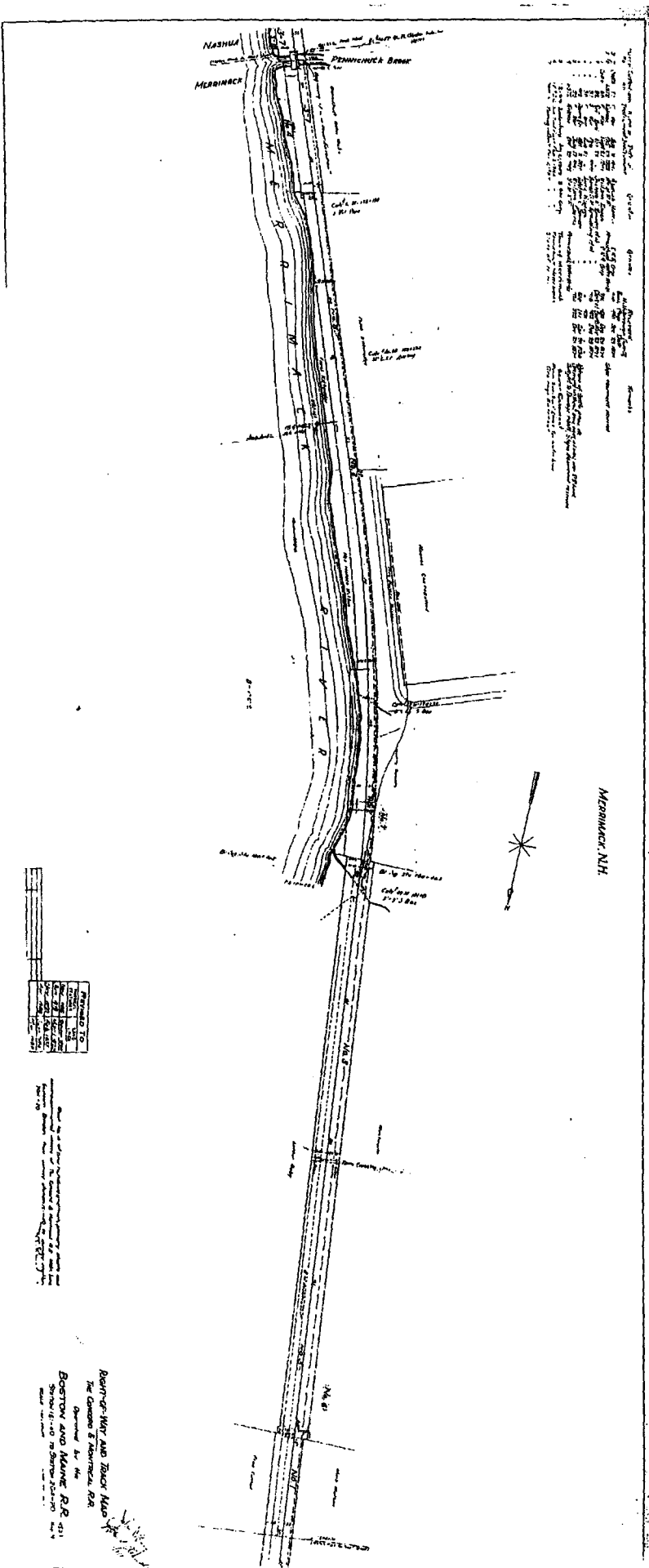


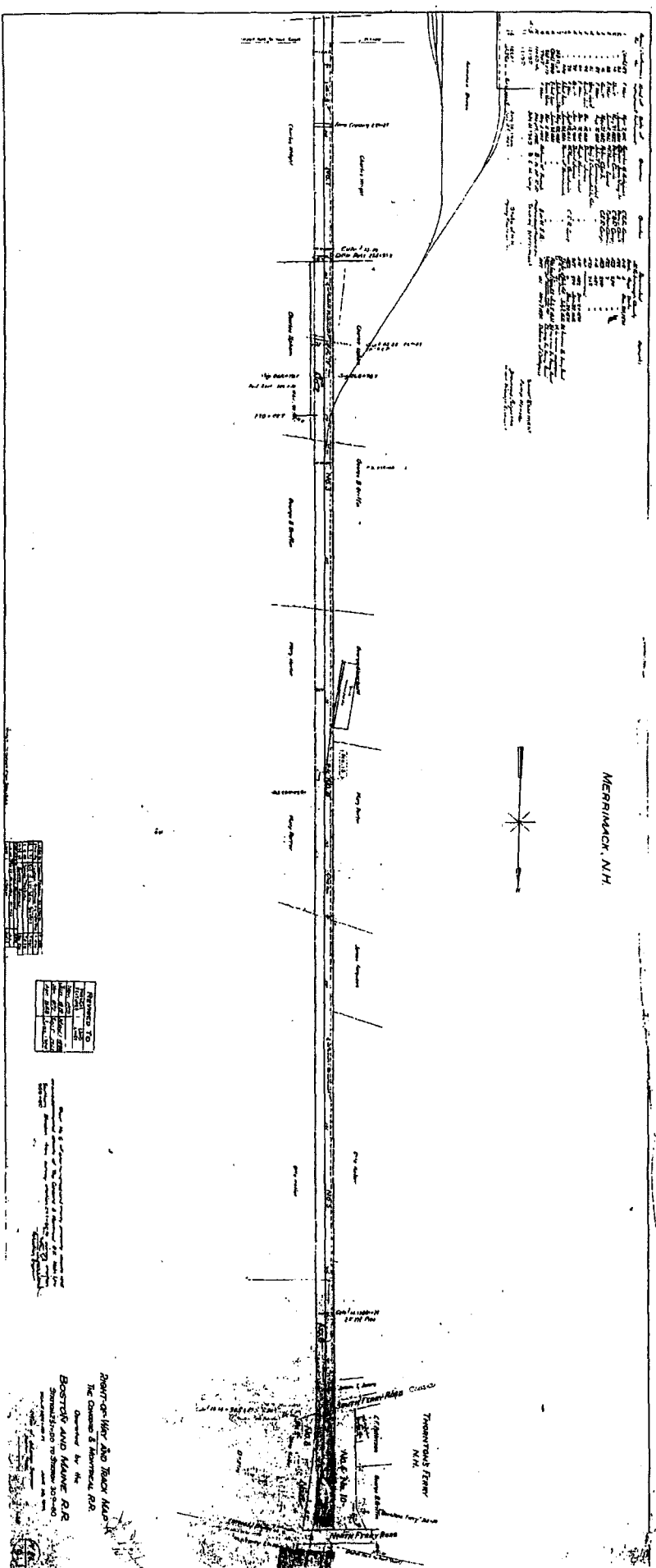
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PROVIDED BY THE
NASHUA RIVER
AND MAINE R.R.
OPERATED BY THE
NASHUA RIVER
AND MAINE R.R.
NASHUA, N.H.



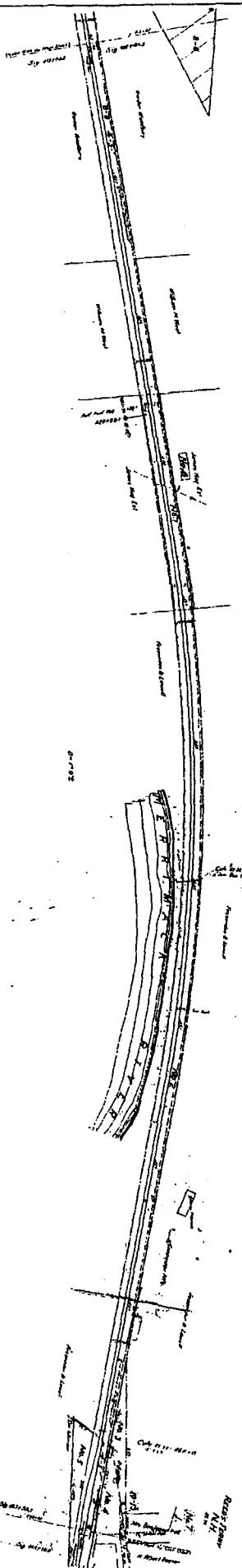






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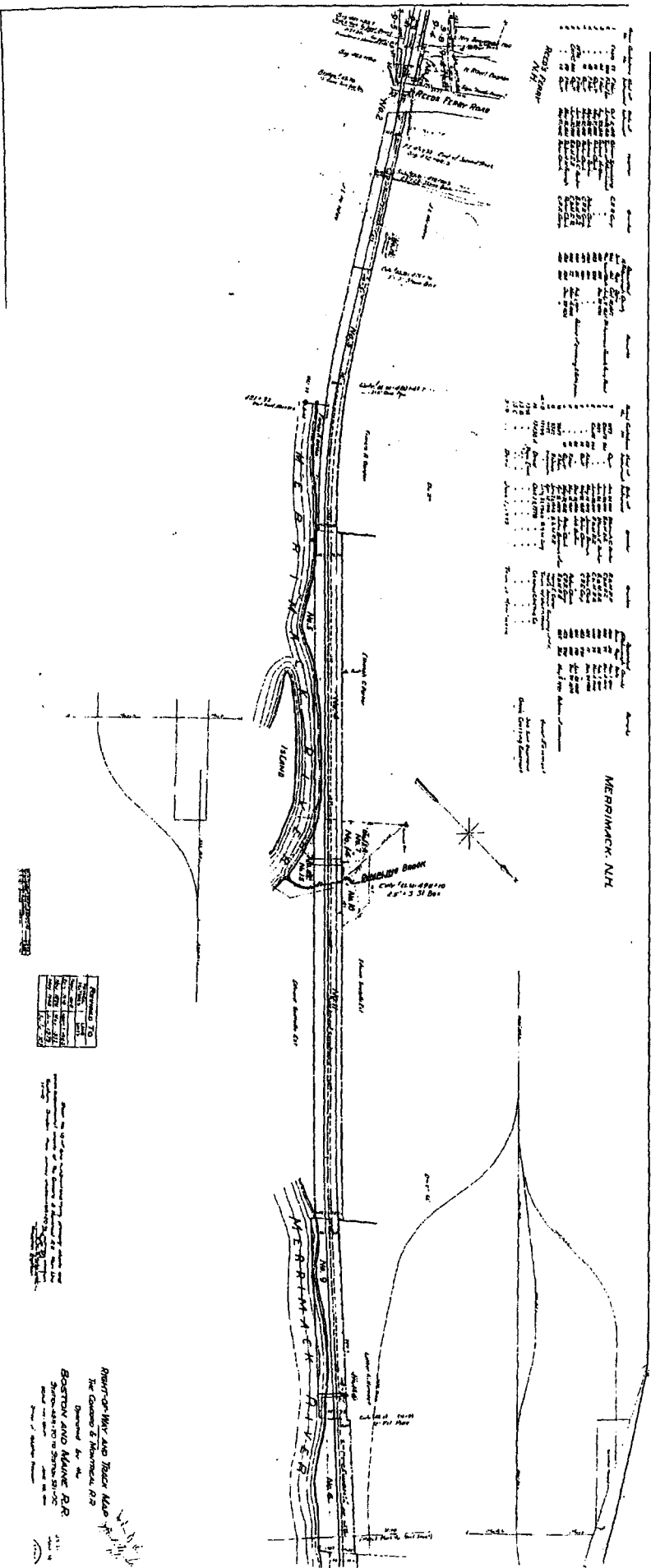
MERRIMACK, N.H.



Station	Grade	Profile	Notes
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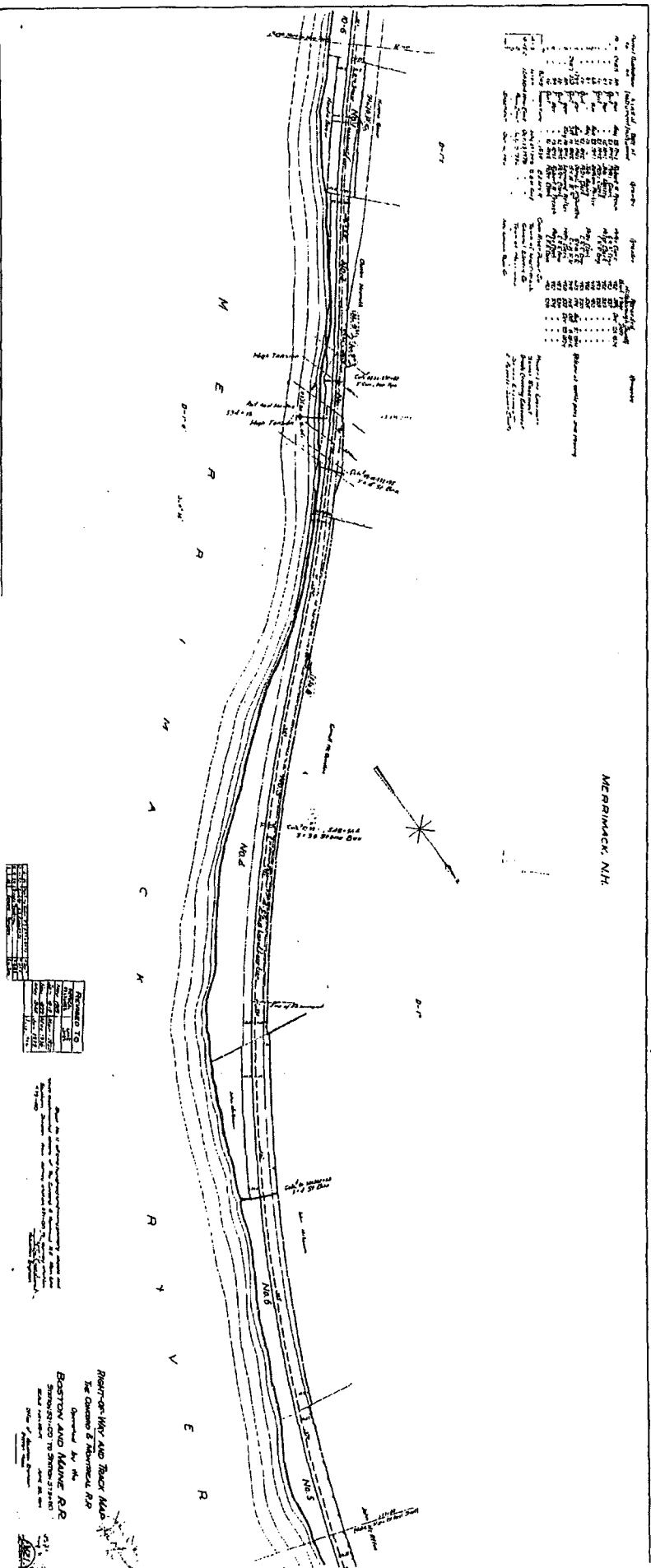
Plan of the Merrimack River Bridge, showing the location of the bridge and the surrounding area. The plan includes a north arrow and a scale bar.

Plan of the Merrimack River Bridge, showing the location of the bridge and the surrounding area. The plan includes a north arrow and a scale bar.

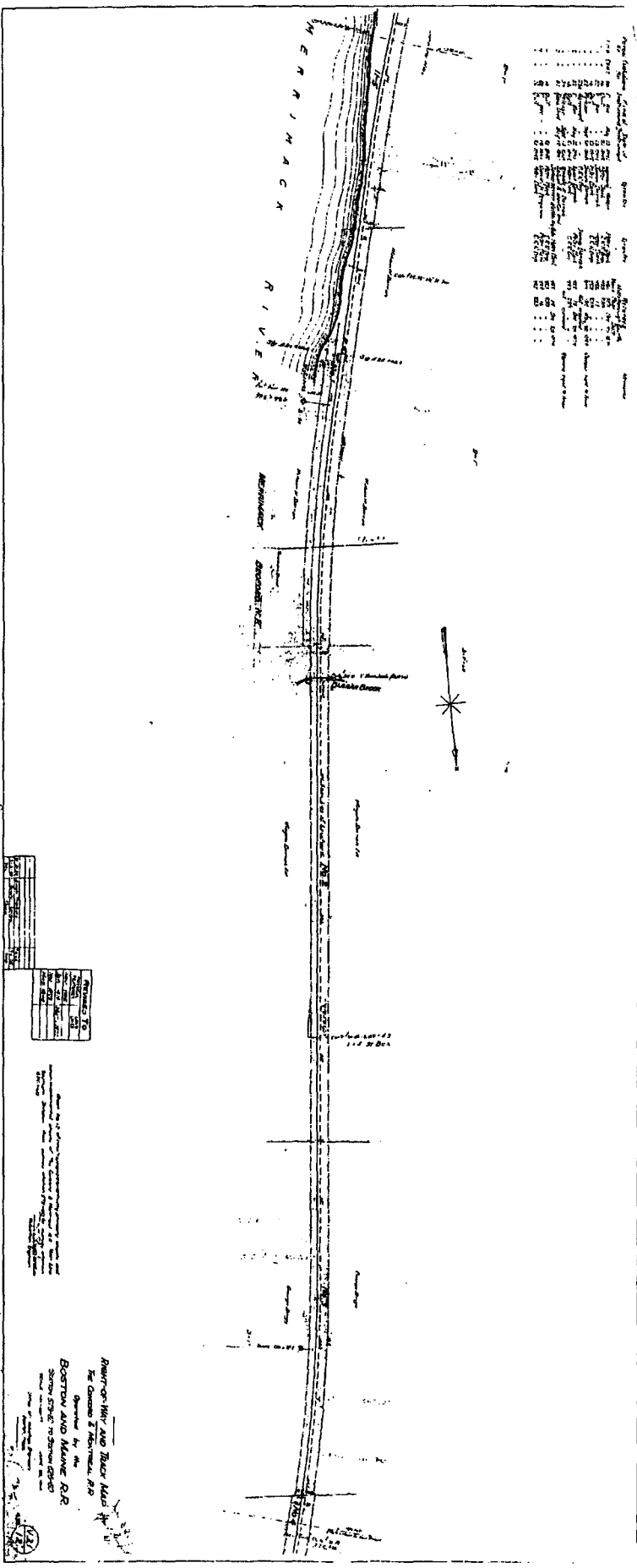


Year	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937	1938	1939	1940	1941	1942	1943	1944	1945	1946	1947	1948	1949	1950	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																			
Population	1,000,000	1,050,000	1,100,000	1,150,000	1,200,000	1,250,000	1,300,000	1,350,000	1,400,000	1,450,000	1,500,000	1,550,000	1,600,000	1,650,000	1,700,000	1,750,000	1,800,000	1,850,000	1,900,000	1,950,000	2,000,000	2,050,000	2,100,000	2,150,000	2,200,000	2,250,000	2,300,000	2,350,000	2,400,000	2,450,000	2,500,000	2,550,000	2,600,000	2,650,000	2,700,000	2,750,000	2,800,000	2,850,000	2,900,000	2,950,000	3,000,000	3,050,000	3,100,000	3,150,000	3,200,000	3,250,000	3,300,000	3,350,000	3,400,000	3,450,000	3,500,000	3,550,000	3,600,000	3,650,000	3,700,000	3,750,000	3,800,000	3,850,000	3,900,000	3,950,000	4,000,000	4,050,000	4,100,000	4,150,000	4,200,000	4,250,000	4,300,000	4,350,000	4,400,000	4,450,000	4,500,000	4,550,000	4,600,000	4,650,000	4,700,000	4,750,000	4,800,000	4,850,000	4,900,000	4,950,000	5,000,000	5,050,000	5,100,000	5,150,000	5,200,000	5,250,000	5,300,000	5,350,000	5,400,000	5,450,000	5,500,000	5,550,000	5,600,000	5,650,000	5,700,000	5,750,000	5,800,000	5,850,000	5,900,000	5,950,000	6,000,000	6,050,000	6,100,000	6,150,000	6,200,000	6,250,000	6,300,000	6,350,000	6,400,000	6,450,000	6,500,000	6,550,000	6,600,000	6,650,000	6,700,000	6,750,000	6,800,000	6,850,000	6,900,000	6,950,000	7,000,000	7,050,000	7,100,000	7,150,000	7,200,000	7,250,000	7,300,000	7,350,000	7,400,000	7,450,000	7,500,000	7,550,000	7,600,000	7,650,000	7,700,000	7,750,000	7,800,000	7,850,000	7,900,000	7,950,000	8,000,000	8,050,000	8,100,000	8,150,000	8,200,000	8,250,000	8,300,000	8,350,000	8,400,000	8,450,000	8,500,000	8,550,000	8,600,000	8,650,000	8,700,000	8,750,000	8,800,000	8,850,000	8,900,000	8,950,000	9,000,000	9,050,000	9,100,000	9,150,000	9,200,000	9,250,000	9,300,000	9,350,000	9,400,000	9,450,000	9,500,000	9,550,000	9,600,000	9,650,000	9,700,000	9,750,000	9,800,000	9,850,000	9,900,000	9,950,000	10,000,000	10,050,000	10,100,000	10,150,000	10,200,000	10,250,000	10,300,000	10,350,000	10,400,000	10,450,000	10,500,000	10,550,000	10,600,000	10,650,000	10,700,000	10,750,000	10,800,000	10,850,000	10,900,000	10,950,000	11,000,000	11,050,000	11,100,000	11,150,000	11,200,000	11,250,000	11,300,000	11,350,000	11,400,000	11,450,000	11,500,000	11,550,000	11,600,000	11,650,000	11,700,000	11,750,000	11,800,000	11,850,000	11,900,000	11,950,000	12,000,000	12,050,000	12,100,000	12,150,000	12,200,000	12,250,000	12,300,000	12,350,000	12,400,000	12,450,000	12,500,000	12,550,000	12,600,000	12,650,000	12,700,000	12,750,000	12,800,000	12,850,000	12,900,000	12,950,000	13,000,000	13,050,000	13,100,000	13,150,000	13,200,000	13,250,000	13,300,000	13,350,000	13,400,000	13,450,000	13,500,000	13,550,000	13,600,000	13,650,000	13,700,000	13,750,000	13,800,000	13,850,000	13,900,000	13,950,000	14,000,000	14,050,000	14,100,000	14,150,000	14,200,000	14,250,000	14,300,000	14,350,000	14,400,000	14,450,000	14,500,000	14,550,000	14,600,000	14,650,000	14,700,000	14,750,000	14,800,000	14,850,000	14,900,000	14,950,000	15,000,000	15,050,000	15,100,000	15,150,000	15,200,000	15,250,000	15,300,000	15,350,000	15,400,000	15,450,000	15,500,000	15,550,000	15,600,000	15,650,000	15,700,000	15,750,000	15,800,000	15,850,000	15,900,000	15,950,000	16,000,000	16,050,000	16,100,000	16,150,000	16,200,000	16,250,000	16,300,000	16,350,000	16,400,000	16,450,000	16,500,000	16,550,000	16,600,000	16,650,000	16,700,000	16,750,000	16,800,000	16,850,000	16,900,000	16,950,000	17,000,000	17,050,000	17,100,000	17,150,000	17,200,000	17,250,000	17,300,000	17,350,000	17,400,000	17,450,000	17,500,000	17,550,000	17,600,000	17,650,000	17,700,000	17,750,000	17,800,000	17,850,000	17,900,000	17,950,000	18,000,000	18,050,000	18,100,000	18,150,000	18,200,000	18,250,000	18,300,000	18,350,000	18,400,000	18,450,000	18,500,000	18,550,000	18,600,000	18,650,000	18,700,000	18,750,000	18,800,000	18,850,000	18,900,000	18,950,000	19,000,000	19,050,000	19,100,000	19,150,000	19,200,000	19,250,000	19,300,000	19,350,000	19,400,000	19,450,000	19,500,000	19,550,000	19,600,000	19,650,000	19,700,000	19,750,000	19,800,000	19,850,000	19,900,000	19,950,000	20,000,000	20,050,000	20,100,000	20,150,000	20,200,000	20,250,000	20,300,000	20,350,000	20,400,000	20,450,000	20,500,000	20,550,000	20,600,000	20,650,000	20,700,000	20,750,000	20,800,000	20,850,000	20,900,000	20,950,000	21,000,000	21,050,000	21,100,000	21,150,000	21,200,000	21,250,000	21,300,000	21,350,000	21,400,000	21,450,000	21,500,000	21,550,000	21,600,000	21,650,000	21,700,000	21,750,000	21,800,000	21,850,000	21,900,000	21,950,000	22,000,000	22,050,000	22,100,000	22,150,000	22,200,000	22,250,000	22,300,000	22,350,000	22,400,000	22,450,000	22,500,000	22,550,000	22,600,000	22,650,000	22,700,000	22,750,000	22,800,000	22,850,000	22,900,000	22,950,000	23,000,000	23,050,000	23,100,000	23,150,000	23,200,000	23,250,000	23,300,000	23,350,000	23,400,000	23,450,000	23,500,000	23,550,000	23,600,000	23,650,000	23,700,000	23,750,000	23,800,000	23,850,000	23,900,000	23,950,000	24,000,000	24,050,000	24,100,000	24,150,000	24,200,000	24,250,000	24,300,000	24,350,000	24,400,000	24,450,000	24,500,000	24,550,000	24,600,000	24,650,000	24,700,000	24,750,000	24,800,000	24,850,000	24,900,000	24,950,000	25,000,000	25,050,000	25,100,000	25,150,000	25,200,000	25,250,000	25,300,000	25,350,000	25,400,000	25,450,000	25,500,000	25,550,000	25,600,000	25,650,000	25,700,000	25,750,000	25,800,000	25,850,000	25,900,000	25,950,000	26,000,000	26,050,000	26,100,000	26,150,000	26,200,000	26,250,000	26,300,000	26,350,000	26,400,000	26,450,000	26,500,000	26,550,000	26,600,000	26,650,000	26,700,000	26,750,000	26,800,000	26,850,000	26,900,000	26,950,000	27,000,000	27,050,000	27,100,000	27,150,000	27,200,000	27,250,000	27,300,000	27,350,000	27,400,000	27,450,000	27,500,000	27,550,000	27,600,000	27,650,000	27,700,000	27,750,000	27,800,000	27,850,000	27,900,000	27,950,000	28,000,000	28,050,000	28,100,000	28,150,000	28,200,000	28,250,000	28,300,000	28,350,000	28,400,000	28,450,000	28,500,000	28,550,000	28,600,000	28,650,000	28,700,000	28,750,000	28,800,000	28,850,000	28,900,000	28,950,000	29,000,000	29,050,000	29,100,000	29,150,000	29,200,000	29,250,000	29,300,000	29,350,000	29,400,000	29,450,000	29,500,000	29,550,000	29,600,000	29,650,000	29,700,000	29,750,000	29,800,000	29,850,000	29,900,000	29,950,000	30,000,000	30,050,000	30,100,000	30,150,000	30,200,000	30,250,000	30,300,000	30,350,000	30,400,000	30,450,000	30,500,000	30,550,000	30,600,000	30,650,000	30,700,000	30,750,000	30,800,000	30,850,000	30,900,000	30,950,000	31,000,000	31,050,000	31,100,000	31,150,000	31,200,000	31,250,000	31,300,000	31,350,000	31,400,000	31,450,000	31,500,000	31,550,000	31,600,000	31,650,000	31,700,000	31,750,000	31,800,000	31,850,000	31,900,000	31,950,000	32,000,000	32,050,000	32,100,000	32,150,000	32,200,000	32,250,000	32,300,000	32,350,000	32,400,000	32,450,000	32,500,000	32,550,000	32,600,000	32,650,000	32,700,000	32,750,000	32,800,000	32,850,000	32,900,000	32,950,000	33,000,000	33,050,000	33,100,000	33,150,000	33,200,000	33,250,000	33,300,000	33,350,000	33,400,000	33,450,000	33,500,000	33,550,000	33,600,000	33,650,000	33,700,000	33,750,000	33,800,000	33,850,000	33,900,000	33,950,000	34,000,000	34,050,000	34,100,000	34,150,000	34,200,000	34,250,000	34,300,000	34,350,000	34,400,000	34,450,000	34,500,000	34,550,000	34,600,000	34,650,000	34,700,000	34,750,000	34,800,000	34,850,000	34,900,000	34,950,000	35,000,000	35,050,000	35,100,000	35,150,000	35,200,000	35,250,000	35,300,000	35,350,000	35,400,000	35,450,000	35,500,000	35,550,000	35,600,000	35,650,000	35,700,000	35,750,000	35,800,000	35,850,000	35,900,000	35,950,000	36,000,000	36,050,000	36,100,000	36,150,000	36,200,000	36,250,000	36,300,000	36,350,000	36,400,000	36,450,000	36,500,000	36,550,000	36,600,000	36,650,000	36,700,000	36,750,0

MEERIMACK, N.H.

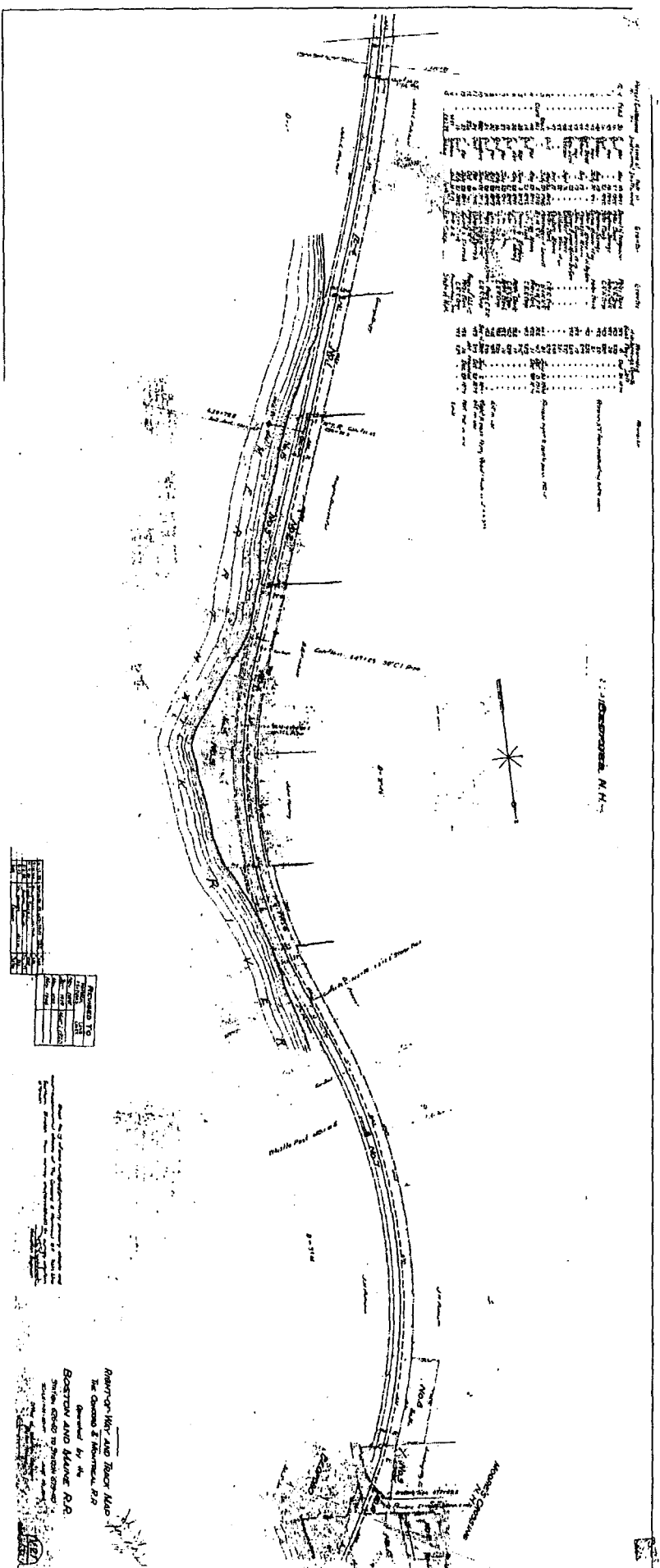


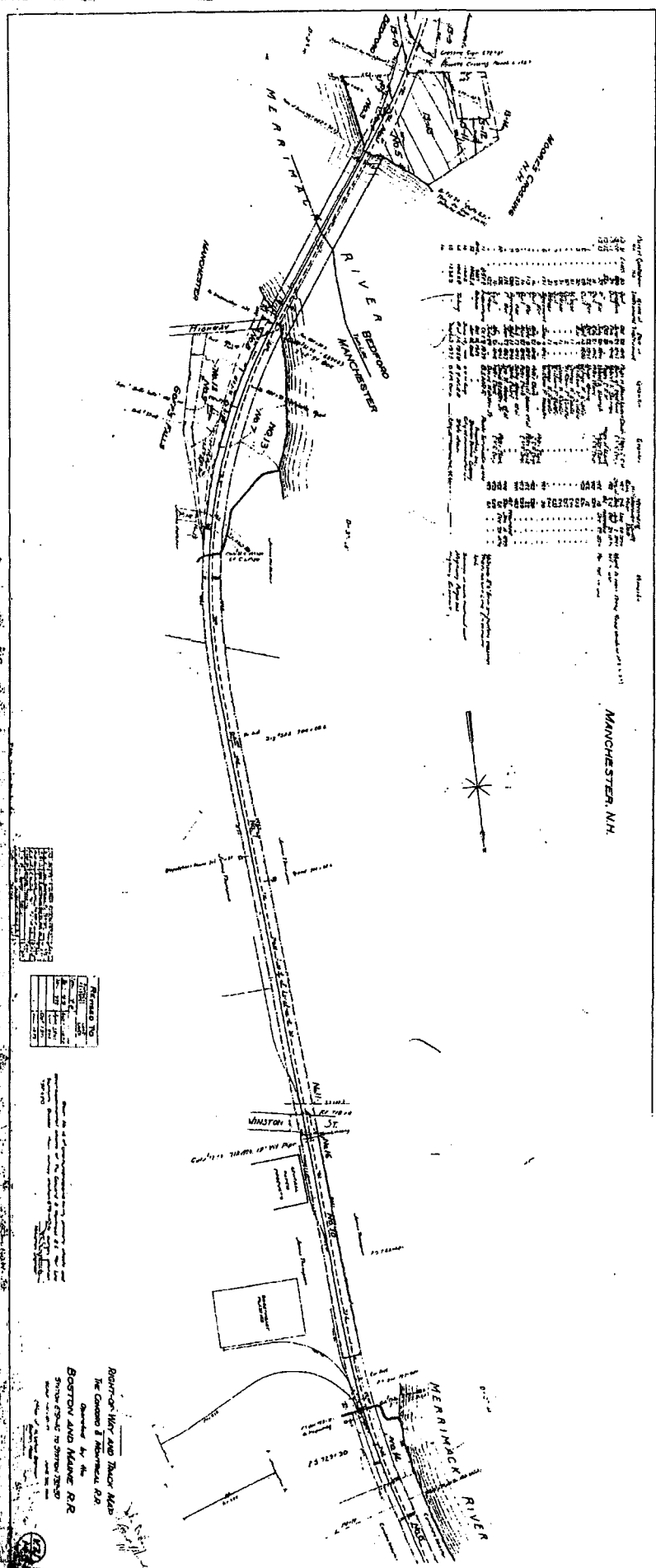
Station	Point	Distance	Remarks
100	100	0.00	Start of bridge
101	101	0.01	
102	102	0.02	
103	103	0.03	
104	104	0.04	
105	105	0.05	
106	106	0.06	
107	107	0.07	
108	108	0.08	
109	109	0.09	
110	110	0.10	
111	111	0.11	
112	112	0.12	
113	113	0.13	
114	114	0.14	
115	115	0.15	
116	116	0.16	
117	117	0.17	
118	118	0.18	
119	119	0.19	
120	120	0.20	
121	121	0.21	
122	122	0.22	
123	123	0.23	
124	124	0.24	
125	125	0.25	
126	126	0.26	
127	127	0.27	
128	128	0.28	
129	129	0.29	
130	130	0.30	
131	131	0.31	
132	132	0.32	
133	133	0.33	
134	134	0.34	
135	135	0.35	
136	136	0.36	
137	137	0.37	
138	138	0.38	
139	139	0.39	
140	140	0.40	
141	141	0.41	
142	142	0.42	
143	143	0.43	
144	144	0.44	
145	145	0.45	
146	146	0.46	
147	147	0.47	
148	148	0.48	
149	149	0.49	
150	150	0.50	
151	151	0.51	
152	152	0.52	
153	153	0.53	
154	154	0.54	
155	155	0.55	
156	156	0.56	
157	157	0.57	
158	158	0.58	
159	159	0.59	
160	160	0.60	
161	161	0.61	
162	162	0.62	
163	163	0.63	
164	164	0.64	
165	165	0.65	
166	166	0.66	
167	167	0.67	
168	168	0.68	
169	169	0.69	
170	170	0.70	
171	171	0.71	
172	172	0.72	
173	173	0.73	
174	174	0.74	
175	175	0.75	
176	176	0.76	
177	177	0.77	
178	178	0.78	
179	179	0.79	
180	180	0.80	
181	181	0.81	
182	182	0.82	
183	183	0.83	
184	184	0.84	
185	185	0.85	
186	186	0.86	
187	187	0.87	
188	188	0.88	
189	189	0.89	
190	190	0.90	
191	191	0.91	
192	192	0.92	
193	193	0.93	
194	194	0.94	
195	195	0.95	
196	196	0.96	
197	197	0.97	
198	198	0.98	
199	199	0.99	
200	200	1.00	End of bridge

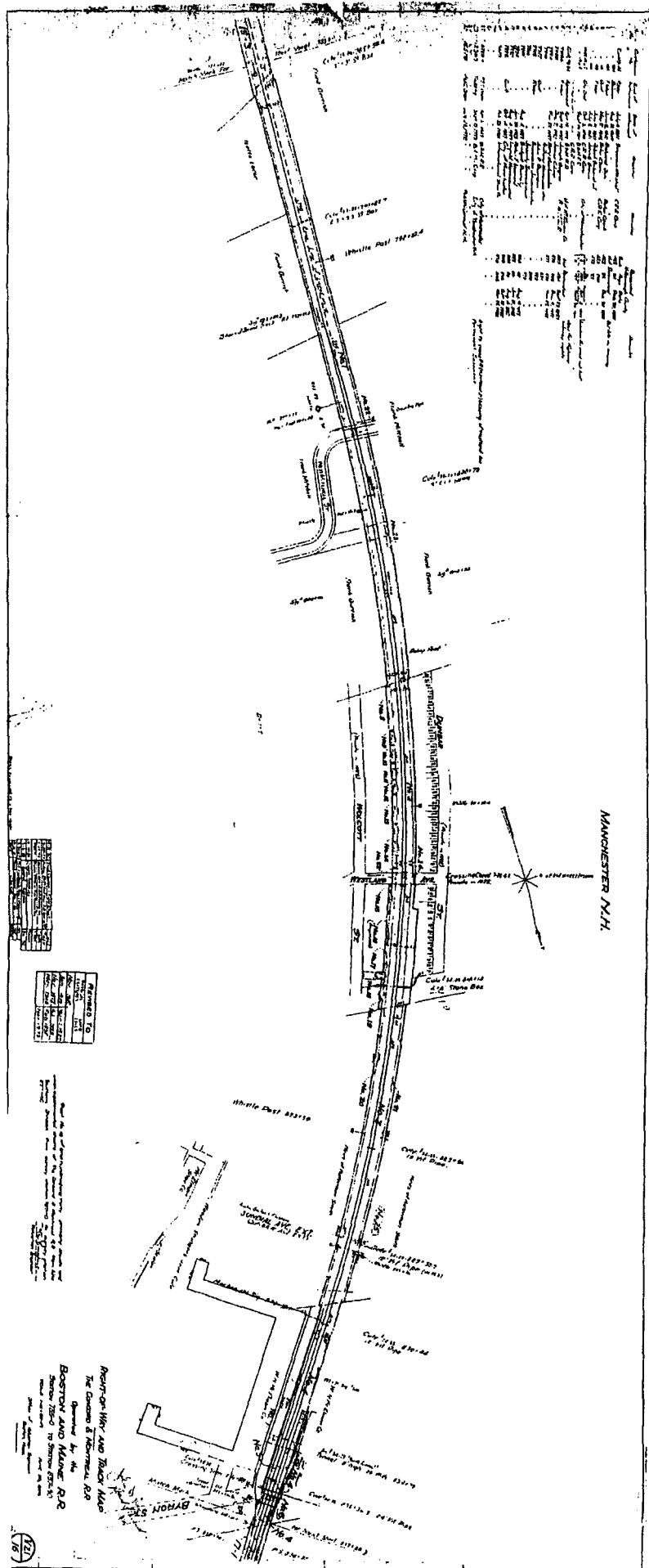


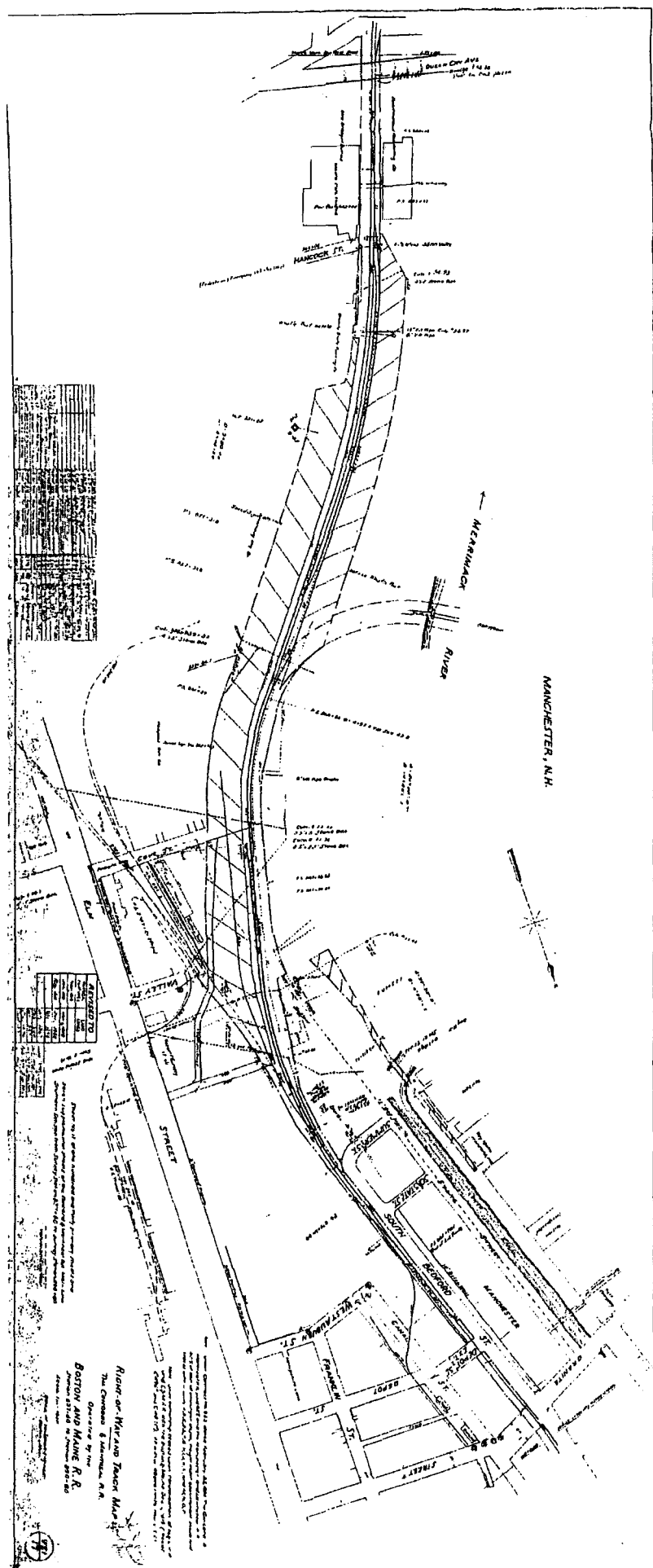
Station	Point	Distance	Remarks
100	100	0.00	Start of bridge
101	101	0.01	
102	102	0.02	
103	103	0.03	
104	104	0.04	
105	105	0.05	
106	106	0.06	
107	107	0.07	
108	108	0.08	
109	109	0.09	
110	110	0.10	
111	111	0.11	
112	112	0.12	
113	113	0.13	
114	114	0.14	
115	115	0.15	
116	116	0.16	
117	117	0.17	
118	118	0.18	
119	119	0.19	
120	120	0.20	
121	121	0.21	
122	122	0.22	
123	123	0.23	
124	124	0.24	
125	125	0.25	
126	126	0.26	
127	127	0.27	
128	128	0.28	
129	129	0.29	
130	130	0.30	
131	131	0.31	
132	132	0.32	
133	133	0.33	
134	134	0.34	
135	135	0.35	
136	136	0.36	
137	137	0.37	
138	138	0.38	
139	139	0.39	
140	140	0.40	
141	141	0.41	
142	142	0.42	
143	143	0.43	
144	144	0.44	
145	145	0.45	
146	146	0.46	
147	147	0.47	
148	148	0.48	
149	149	0.49	
150	150	0.50	
151	151	0.51	
152	152	0.52	
153	153	0.53	
154	154	0.54	
155	155	0.55	
156	156	0.56	
157	157	0.57	
158	158	0.58	
159	159	0.59	
160	160	0.60	
161	161	0.61	
162	162	0.62	
163	163	0.63	
164	164	0.64	
165	165	0.65	
166	166	0.66	
167	167	0.67	
168	168	0.68	
169	169	0.69	
170	170	0.70	
171	171	0.71	
172	172	0.72	
173	173	0.73	
174	174	0.74	
175	175	0.75	
176	176	0.76	
177	177	0.77	
178	178	0.78	
179	179	0.79	
180	180	0.80	
181	181	0.81	
182	182	0.82	
183	183	0.83	
184	184	0.84	
185	185	0.85	
186	186	0.86	
187	187	0.87	
188	188	0.88	
189	189	0.89	
190	190	0.90	
191	191	0.91	
192	192	0.92	
193	193	0.93	
194	194	0.94	
195	195	0.95	
196	196	0.96	
197	197	0.97	
198	198	0.98	
199	199	0.99	
200	200	1.00	End of bridge

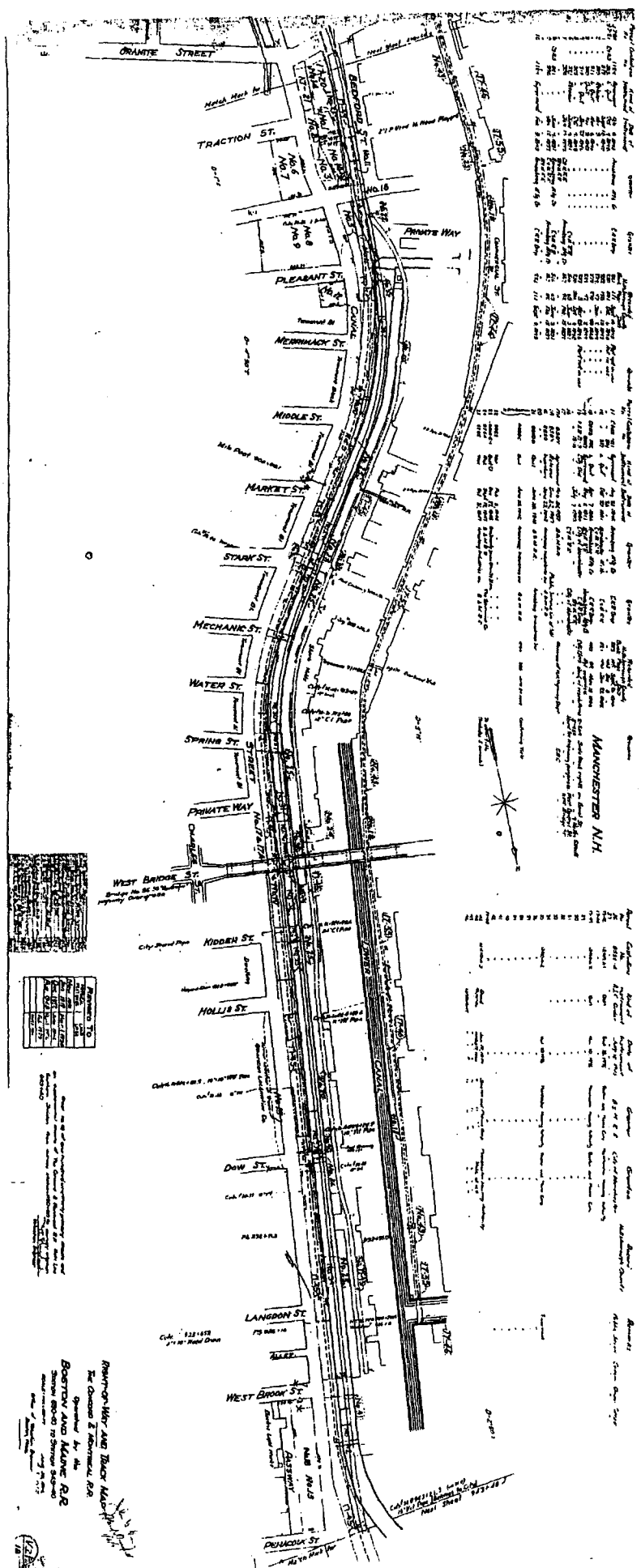
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 BOSTON AND MAINE R.R.
 BOSTON, MASS.
 1880





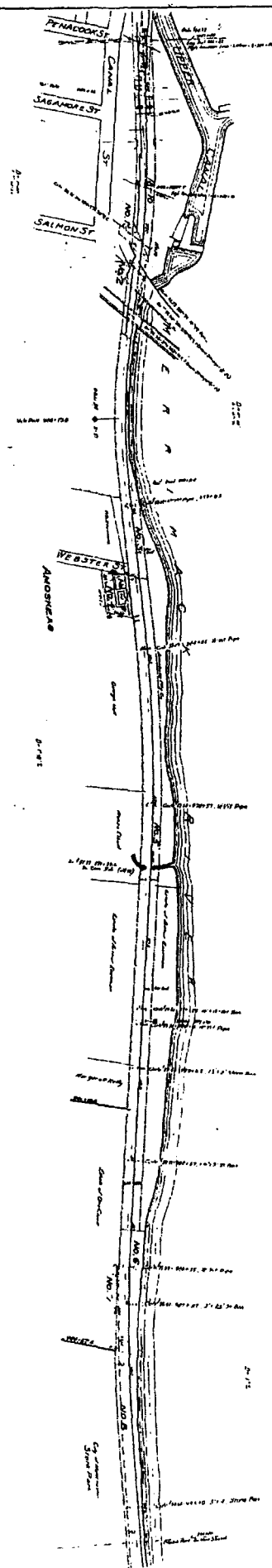






Project Number	Section Number	Sheet Number	Scale	Drawn By	Checked By	Approved By	Date
100	100	100	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10
101	101	101	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10
102	102	102	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10
103	103	103	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10
104	104	104	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10
105	105	105	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10
106	106	106	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10
107	107	107	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10
108	108	108	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10
109	109	109	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10
110	110	110	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10

MANCHESTER, N.H.



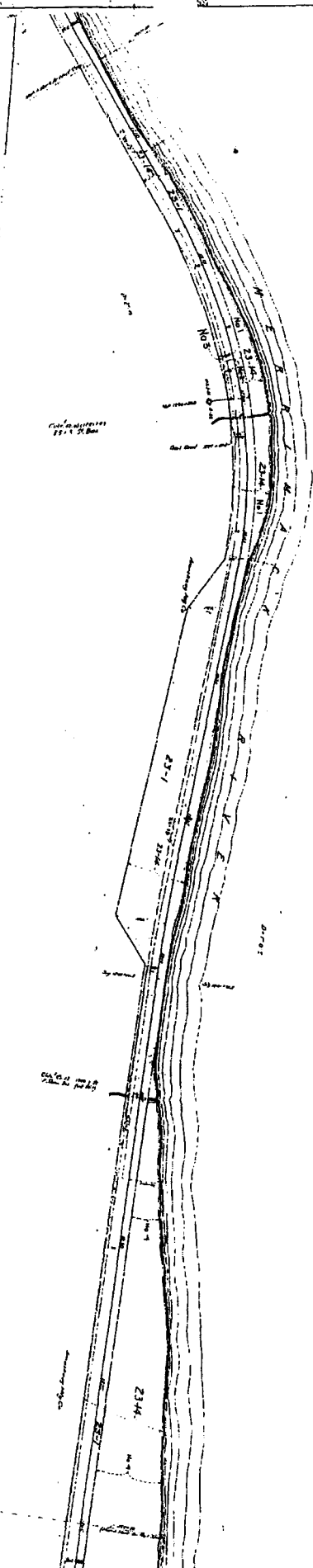
Section	Sheet	Scale	Drawn By	Checked By	Approved By	Date
100	100	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10
101	101	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10
102	102	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10
103	103	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10
104	104	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10
105	105	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10
106	106	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10
107	107	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10
108	108	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10
109	109	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10
110	110	1" = 100'	J. H. Smith	J. H. Smith	J. H. Smith	10/10/10

Point of View and Back View
 The drawing is a plan view of the river and canal system in Manchester, N.H. It shows the main channel and its tributaries, as well as the bridges and other structures crossing them. The drawing is a technical drawing and is not to scale.

Station	Distance	Remarks	Notes
1	0.0	Start of Bridge	
2	0.1	End of Bridge	
3	0.2	Start of Bridge	
4	0.3	End of Bridge	
5	0.4	Start of Bridge	
6	0.5	End of Bridge	
7	0.6	Start of Bridge	
8	0.7	End of Bridge	
9	0.8	Start of Bridge	
10	0.9	End of Bridge	
11	1.0	Start of Bridge	
12	1.1	End of Bridge	
13	1.2	Start of Bridge	
14	1.3	End of Bridge	
15	1.4	Start of Bridge	
16	1.5	End of Bridge	
17	1.6	Start of Bridge	
18	1.7	End of Bridge	
19	1.8	Start of Bridge	
20	1.9	End of Bridge	
21	2.0	Start of Bridge	
22	2.1	End of Bridge	
23	2.2	Start of Bridge	
24	2.3	End of Bridge	
25	2.4	Start of Bridge	
26	2.5	End of Bridge	
27	2.6	Start of Bridge	
28	2.7	End of Bridge	
29	2.8	Start of Bridge	
30	2.9	End of Bridge	
31	3.0	Start of Bridge	
32	3.1	End of Bridge	
33	3.2	Start of Bridge	
34	3.3	End of Bridge	
35	3.4	Start of Bridge	
36	3.5	End of Bridge	
37	3.6	Start of Bridge	
38	3.7	End of Bridge	
39	3.8	Start of Bridge	
40	3.9	End of Bridge	
41	4.0	Start of Bridge	
42	4.1	End of Bridge	
43	4.2	Start of Bridge	
44	4.3	End of Bridge	
45	4.4	Start of Bridge	
46	4.5	End of Bridge	
47	4.6	Start of Bridge	
48	4.7	End of Bridge	
49	4.8	Start of Bridge	
50	4.9	End of Bridge	
51	5.0	Start of Bridge	
52	5.1	End of Bridge	
53	5.2	Start of Bridge	
54	5.3	End of Bridge	
55	5.4	Start of Bridge	
56	5.5	End of Bridge	
57	5.6	Start of Bridge	
58	5.7	End of Bridge	
59	5.8	Start of Bridge	
60	5.9	End of Bridge	
61	6.0	Start of Bridge	
62	6.1	End of Bridge	
63	6.2	Start of Bridge	
64	6.3	End of Bridge	
65	6.4	Start of Bridge	
66	6.5	End of Bridge	
67	6.6	Start of Bridge	
68	6.7	End of Bridge	
69	6.8	Start of Bridge	
70	6.9	End of Bridge	
71	7.0	Start of Bridge	
72	7.1	End of Bridge	
73	7.2	Start of Bridge	
74	7.3	End of Bridge	
75	7.4	Start of Bridge	
76	7.5	End of Bridge	
77	7.6	Start of Bridge	
78	7.7	End of Bridge	
79	7.8	Start of Bridge	
80	7.9	End of Bridge	
81	8.0	Start of Bridge	
82	8.1	End of Bridge	
83	8.2	Start of Bridge	
84	8.3	End of Bridge	
85	8.4	Start of Bridge	
86	8.5	End of Bridge	
87	8.6	Start of Bridge	
88	8.7	End of Bridge	
89	8.8	Start of Bridge	
90	8.9	End of Bridge	
91	9.0	Start of Bridge	
92	9.1	End of Bridge	
93	9.2	Start of Bridge	
94	9.3	End of Bridge	
95	9.4	Start of Bridge	
96	9.5	End of Bridge	
97	9.6	Start of Bridge	
98	9.7	End of Bridge	
99	9.8	Start of Bridge	
100	9.9	End of Bridge	
101	10.0	Start of Bridge	
102	10.1	End of Bridge	
103	10.2	Start of Bridge	
104	10.3	End of Bridge	
105	10.4	Start of Bridge	
106	10.5	End of Bridge	
107	10.6	Start of Bridge	
108	10.7	End of Bridge	
109	10.8	Start of Bridge	
110	10.9	End of Bridge	
111	11.0	Start of Bridge	
112	11.1	End of Bridge	
113	11.2	Start of Bridge	
114	11.3	End of Bridge	
115	11.4	Start of Bridge	
116	11.5	End of Bridge	
117	11.6	Start of Bridge	
118	11.7	End of Bridge	
119	11.8	Start of Bridge	
120	11.9	End of Bridge	
121	12.0	Start of Bridge	
122	12.1	End of Bridge	
123	12.2	Start of Bridge	
124	12.3	End of Bridge	
125	12.4	Start of Bridge	
126	12.5	End of Bridge	
127	12.6	Start of Bridge	
128	12.7	End of Bridge	
129	12.8	Start of Bridge	
130	12.9	End of Bridge	
131	13.0	Start of Bridge	
132	13.1	End of Bridge	
133	13.2	Start of Bridge	
134	13.3	End of Bridge	
135	13.4	Start of Bridge	
136	13.5	End of Bridge	
137	13.6	Start of Bridge	
138	13.7	End of Bridge	
139	13.8	Start of Bridge	
140	13.9	End of Bridge	
141	14.0	Start of Bridge	
142	14.1	End of Bridge	
143	14.2	Start of Bridge	
144	14.3	End of Bridge	
145	14.4	Start of Bridge	
146	14.5	End of Bridge	
147	14.6	Start of Bridge	
148	14.7	End of Bridge	
149	14.8	Start of Bridge	
150	14.9	End of Bridge	
151	15.0	Start of Bridge	
152	15.1	End of Bridge	
153	15.2	Start of Bridge	
154	15.3	End of Bridge	
155	15.4	Start of Bridge	
156	15.5	End of Bridge	
157	15.6	Start of Bridge	
158	15.7	End of Bridge	
159	15.8	Start of Bridge	
160	15.9	End of Bridge	
161	16.0	Start of Bridge	
162	16.1	End of Bridge	
163	16.2	Start of Bridge	
164	16.3	End of Bridge	
165	16.4	Start of Bridge	
166	16.5	End of Bridge	
167	16.6	Start of Bridge	
168	16.7	End of Bridge	
169	16.8	Start of Bridge	
170	16.9	End of Bridge	
171	17.0	Start of Bridge	
172	17.1	End of Bridge	
173	17.2	Start of Bridge	
174	17.3	End of Bridge	
175	17.4	Start of Bridge	
176	17.5	End of Bridge	
177	17.6	Start of Bridge	
178	17.7	End of Bridge	
179	17.8	Start of Bridge	
180	17.9	End of Bridge	
181	18.0	Start of Bridge	
182	18.1	End of Bridge	
183	18.2	Start of Bridge	
184	18.3	End of Bridge	
185	18.4	Start of Bridge	
186	18.5	End of Bridge	
187	18.6	Start of Bridge	
188	18.7	End of Bridge	
189	18.8	Start of Bridge	
190	18.9	End of Bridge	
191	19.0	Start of Bridge	
192	19.1	End of Bridge	
193	19.2	Start of Bridge	
194	19.3	End of Bridge	
195	19.4	Start of Bridge	
196	19.5	End of Bridge	
197	19.6	Start of Bridge	
198	19.7	End of Bridge	
199	19.8	Start of Bridge	
200	19.9	End of Bridge	
201	20.0	Start of Bridge	
202	20.1	End of Bridge	
203	20.2	Start of Bridge	
204	20.3	End of Bridge	
205	20.4	Start of Bridge	
206	20.5	End of Bridge	
207	20.6	Start of Bridge	
208	20.7	End of Bridge	
209	20.8	Start of Bridge	
210	20.9	End of Bridge	
211	21.0	Start of Bridge	
212	21.1	End of Bridge	
213	21.2	Start of Bridge	
214	21.3	End of Bridge	
215	21.4	Start of Bridge	
216	21.5	End of Bridge	
217	21.6	Start of Bridge	
218	21.7	End of Bridge	
219	21.8	Start of Bridge	
220	21.9	End of Bridge	
221	22.0	Start of Bridge	
222	22.1	End of Bridge	
223	22.2	Start of Bridge	
224	22.3	End of Bridge	
225	22.4	Start of Bridge	
226	22.5	End of Bridge	
227	22.6	Start of Bridge	
228	22.7	End of Bridge	
229	22.8	Start of Bridge	
230	22.9	End of Bridge	
231	23.0	Start of Bridge	
232	23.1	End of Bridge	
233	23.2	Start of Bridge	
234	23.3	End of Bridge	
235	23.4	Start of Bridge	
236	23.5	End of Bridge	
237	23.6	Start of Bridge	
238	23.7	End of Bridge	
239	23.8	Start of Bridge	
240	23.9	End of Bridge	
241	24.0	Start of Bridge	
242	24.1	End of Bridge	
243	24.2	Start of Bridge	
244	24.3	End of Bridge	
245	24.4	Start of Bridge	
246	24.5	End of Bridge	
247	24.6	Start of Bridge	
248	24.7	End of Bridge	
249	24.8	Start of Bridge	
250	24.9	End of Bridge	
251	25.0	Start of Bridge	
252	25.1	End of Bridge	
253	25.2	Start of Bridge	
254	25.3	End of Bridge	
255	25.4	Start of Bridge	
256	25.5	End of Bridge	
257	25.6	Start of Bridge	
258	25.7	End of Bridge	
259	25.8	Start of Bridge	
260	25.9	End of Bridge	
261	26.0	Start of Bridge	
262	26.1	End of Bridge	
263	26.2	Start of Bridge	
264	26.3	End of Bridge	
265	26.4	Start of Bridge	
266	26.5	End of Bridge	
267	26.6	Start of Bridge	
268	26.7	End of Bridge	
269	26.8	Start of Bridge	
270	26.9	End of Bridge	
271	27.0	Start of Bridge	
272	27.1	End of Bridge	
273	27.2	Start of Bridge	
274	27.3	End of Bridge	
275	27.4	Start of Bridge	
276	27.5	End of Bridge	
277	27.6	Start of Bridge	
278	27.7	End of Bridge	
279	27.8	Start of Bridge	
280	27.9	End of Bridge	
281	28.0	Start of Bridge	
282	28.1	End of Bridge	
283	28.2	Start of Bridge	
284	28.3	End of Bridge	
285	28.4	Start of Bridge	
286	28.5	End of Bridge	
287	28.6	Start of Bridge	
288	28.7	End of Bridge	
289	28.8	Start of Bridge	
290	28.9	End of Bridge	
291	29.0	Start of Bridge	
292	29.1	End of Bridge	
293	29.2	Start of Bridge	
294	29.3	End of Bridge	
295	29.4	Start of Bridge	
296	29.5	End of Bridge	
297	29.6	Start of Bridge	
298	29.7	End of Bridge	
299	29.8	Start of Bridge	
300	29.9	End of Bridge	
301	30.0	Start of Bridge	
302	30.1	End of Bridge	
303	30.2	Start of Bridge	
304	30.3	End of Bridge	
305	30.4	Start of Bridge	
306	30.5	End of Bridge	
307	30.6	Start of Bridge	
308	30.7	End of Bridge	
309	30.8	Start of Bridge	
310	30.9	End of Bridge	
311	31.0	Start of Bridge	
312	31.1	End of Bridge	
313	31.2	Start of Bridge	
314	31.3	End of Bridge	
315	31.4	Start of Bridge	
316	31.5	End of Bridge	
317	31.6	Start of Bridge	
318	31.7	End of Bridge	
319	31.8	Start of Bridge	
320	31.9	End of Bridge	
321	32.0	Start of Bridge	
322	32.1	End of Bridge	
323	32.2	Start of Bridge	
324	32.3	End of Bridge	
325	32.4	Start of Bridge	
326	32.5	End of Bridge	
327	32.6	Start of Bridge	
328	32.7	End of Bridge	
329	32.8	Start of Bridge	
330	32.9	End of Bridge	
331	33.0	Start of Bridge	
332	33.1	End of Bridge	
333	33.2	Start of Bridge	
334	33.3	End of Bridge	
335	33.4	Start of Bridge	
336	33.5	End of Bridge	
337	33.6	Start of Bridge	
338	33.7	End of Bridge	
339	33.8	Start of Bridge	
340	33.9	End of Bridge	
341	34.0	Start of Bridge	
342	34.1	End of Bridge	
343	34.2	Start of Bridge	
344	34.3	End of Bridge	
345	34.4	Start of Bridge	
346	34.5	End of Bridge	
347	34.6	Start of Bridge	
348	34.7	End of Bridge	
349	34.8	Start of Bridge	
350	34.9	End of Bridge	
351	35.0	Start of Bridge	
352	35.1	End of Bridge	
353	35.2	Start of Bridge	
354	35.3	End of Bridge	
355	35.4	Start of Bridge	
356	35.5	End of Bridge	
357	35.6	Start of Bridge	
358	35.7	End of Bridge	

Station	Distance	Remarks
1	0.00	Start of section
2	0.10	...
3	0.20	...
4	0.30	...
5	0.40	...
6	0.50	...
7	0.60	...
8	0.70	...
9	0.80	...
10	0.90	...
11	1.00	...
12	1.10	...
13	1.20	...
14	1.30	...
15	1.40	...
16	1.50	...
17	1.60	...
18	1.70	...
19	1.80	...
20	1.90	...
21	2.00	...
22	2.10	...
23	2.20	...
24	2.30	...
25	2.40	...
26	2.50	...
27	2.60	...
28	2.70	...
29	2.80	...
30	2.90	...
31	3.00	...
32	3.10	...
33	3.20	...
34	3.30	...
35	3.40	...
36	3.50	...
37	3.60	...
38	3.70	...
39	3.80	...
40	3.90	...
41	4.00	...
42	4.10	...
43	4.20	...
44	4.30	...
45	4.40	...
46	4.50	...
47	4.60	...
48	4.70	...
49	4.80	...
50	4.90	...
51	5.00	...
52	5.10	...
53	5.20	...
54	5.30	...
55	5.40	...
56	5.50	...
57	5.60	...
58	5.70	...
59	5.80	...
60	5.90	...
61	6.00	...
62	6.10	...
63	6.20	...
64	6.30	...
65	6.40	...
66	6.50	...
67	6.60	...
68	6.70	...
69	6.80	...
70	6.90	...
71	7.00	...
72	7.10	...
73	7.20	...
74	7.30	...
75	7.40	...
76	7.50	...
77	7.60	...
78	7.70	...
79	7.80	...
80	7.90	...
81	8.00	...
82	8.10	...
83	8.20	...
84	8.30	...
85	8.40	...
86	8.50	...
87	8.60	...
88	8.70	...
89	8.80	...
90	8.90	...
91	9.00	...
92	9.10	...
93	9.20	...
94	9.30	...
95	9.40	...
96	9.50	...
97	9.60	...
98	9.70	...
99	9.80	...
100	9.90	...
101	10.00	...
102	10.10	...
103	10.20	...
104	10.30	...
105	10.40	...
106	10.50	...
107	10.60	...
108	10.70	...
109	10.80	...
110	10.90	...
111	11.00	...
112	11.10	...
113	11.20	...
114	11.30	...
115	11.40	...
116	11.50	...
117	11.60	...
118	11.70	...
119	11.80	...
120	11.90	...
121	12.00	...
122	12.10	...
123	12.20	...
124	12.30	...
125	12.40	...
126	12.50	...
127	12.60	...
128	12.70	...
129	12.80	...
130	12.90	...
131	13.00	...
132	13.10	...
133	13.20	...
134	13.30	...
135	13.40	...
136	13.50	...
137	13.60	...
138	13.70	...
139	13.80	...
140	13.90	...
141	14.00	...
142	14.10	...
143	14.20	...
144	14.30	...
145	14.40	...
146	14.50	...
147	14.60	...
148	14.70	...
149	14.80	...
150	14.90	...
151	15.00	...
152	15.10	...
153	15.20	...
154	15.30	...
155	15.40	...
156	15.50	...
157	15.60	...
158	15.70	...
159	15.80	...
160	15.90	...
161	16.00	...
162	16.10	...
163	16.20	...
164	16.30	...
165	16.40	...
166	16.50	...
167	16.60	...
168	16.70	...
169	16.80	...
170	16.90	...
171	17.00	...
172	17.10	...
173	17.20	...
174	17.30	...
175	17.40	...
176	17.50	...
177	17.60	...
178	17.70	...
179	17.80	...
180	17.90	...
181	18.00	...
182	18.10	...
183	18.20	...
184	18.30	...
185	18.40	...
186	18.50	...
187	18.60	...
188	18.70	...
189	18.80	...
190	18.90	...
191	19.00	...
192	19.10	...
193	19.20	...
194	19.30	...
195	19.40	...
196	19.50	...
197	19.60	...
198	19.70	...
199	19.80	...
200	19.90	...
201	20.00	...
202	20.10	...
203	20.20	...
204	20.30	...
205	20.40	...
206	20.50	...
207	20.60	...
208	20.70	...
209	20.80	...
210	20.90	...
211	21.00	...
212	21.10	...
213	21.20	...
214	21.30	...
215	21.40	...
216	21.50	...
217	21.60	...
218	21.70	...
219	21.80	...
220	21.90	...
221	22.00	...
222	22.10	...
223	22.20	...
224	22.30	...
225	22.40	...
226	22.50	...
227	22.60	...
228	22.70	...
229	22.80	...
230	22.90	...
231	23.00	...
232	23.10	...
233	23.20	...
234	23.30	...
235	23.40	...
236	23.50	...
237	23.60	...
238	23.70	...
239	23.80	...
240	23.90	...
241	24.00	...
242	24.10	...
243	24.20	...
244	24.30	...
245	24.40	...
246	24.50	...
247	24.60	...
248	24.70	...
249	24.80	...
250	24.90	...
251	25.00	...
252	25.10	...
253	25.20	...
254	25.30	...
255	25.40	...
256	25.50	...
257	25.60	...
258	25.70	...
259	25.80	...
260	25.90	...
261	26.00	...
262	26.10	...
263	26.20	...
264	26.30	...
265	26.40	...
266	26.50	...
267	26.60	...
268	26.70	...
269	26.80	...
270	26.90	...
271	27.00	...
272	27.10	...
273	27.20	...
274	27.30	...
275	27.40	...
276	27.50	...
277	27.60	...
278	27.70	...
279	27.80	...
280	27.90	...
281	28.00	...
282	28.10	...
283	28.20	...
284	28.30	...
285	28.40	...
286	28.50	...
287	28.60	...
288	28.70	...
289	28.80	...
290	28.90	...
291	29.00	...
292	29.10	...
293	29.20	...
294	29.30	...
295	29.40	...
296	29.50	...
297	29.60	...
298	29.70	...
299	29.80	...
300	29.90	...
301	30.00	...
302	30.10	...
303	30.20	...
304	30.30	...
305	30.40	...
306	30.50	...
307	30.60	...
308	30.70	...
309	30.80	...
310	30.90	...
311	31.00	...
312	31.10	...
313	31.20	...
314	31.30	...
315	31.40	...
316	31.50	...
317	31.60	...
318	31.70	...
319	31.80	...
320	31.90	...
321	32.00	...
322	32.10	...
323	32.20	...
324	32.30	...
325	32.40	...
326	32.50	...
327	32.60	...
328	32.70	...
329	32.80	...
330	32.90	...
331	33.00	...
332	33.10	...
333	33.20	...
334	33.30	...
335	33.40	...
336	33.50	...
337	33.60	...
338	33.70	...
339	33.80	...
340	33.90	...
341	34.00	...
342	34.10	...
343	34.20	...
344	34.30	...
345	34.40	...
346	34.50	...
347	34.60	...
348	34.70	...
349	34.80	...
350	34.90	...
351	35.00	...
352	35.10	...
353	35.20	...
354	35.30	...
355	35.40	...
356	35.50	...
357	35.60	...
358	35.70	...
359	35.80	...
360	35.90	...
361	36.00	...
362	36.10	...
363	36.20	...
364	36.30	...
365	36.40	...
366	36.50	...
367	36.60	...
368	36.70	...
369	36.80	...
370	36.90	...
371	37.00	...
372	37.10	...
373	37.20	...
374	37.30	...
375	37.40	...
376	37.50	...
377	37.60	...
378	37.70	...
379	37.80	...
380	37.90	...
381	38.00	...
382	38.10	...
383	38.20	...
384	38.30	...
385	38.40	...
386	38.50	...
387	38.60	...
388	38.70	...
389	38.80	...
390	38.90	...
391	39.00	...
392	39.10	...
393	39.20	...
394	39.30	...
395	39.40	...
396	39.50	...
397	39.60	...
398	39.70	...
399	39.80	...
400	39.90	...
401	40.00	...
402	40.10	...
403	40.20	...
404	40.30	...
405	40.40	...
406	40.50	...
407	40.60	...
408	40.70	...
409	40.80	...
410	40.90	...
411	41.00	...
412	41.10	...
413	41.20	...
414	41.30	...
415	41.40	...
416	41.50	...
417	41.60	...
418	41.70	...
419	41.80	...
420	41.90	...
421	42.00	...
422	42.10	...
423	42.20	...
424	42.30	...
425	42.40	...
426	42.50	...
427	42.60	...
428	42.70	...
429	42.80	...
430	42.90	...
431	43.00	...
432	43.10	...
433		

HOOKSETT, N.H.

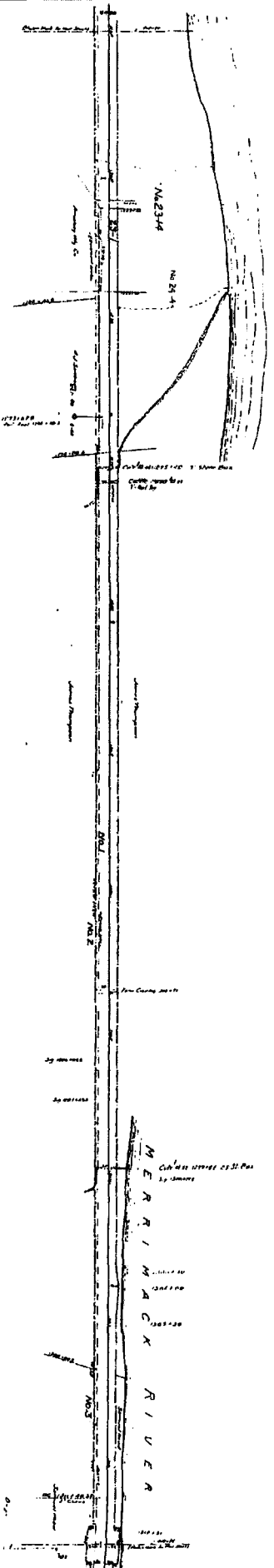


REVIEWED TO	DATE
BY	DATE
BY	DATE
BY	DATE
BY	DATE

[illegible]

PROCTOR, HAY & TRACY MAP
The CAMDEN & MOUNTAIN R.R.
Drawn by the
BOSTON AND MAINE R.R.
STATION, 67-69 to 71 STATE ST. &
WENT AHEAD OF THE
MOUNTAIN R.R. & THE
CAMDEN R.R.

1. The map shows the location of the
 2. station relative to the
 3. river and the
 4. surrounding area.



Haverhill, N.H.



Station	Latitude	Longitude
1	42° 45' N	71° 05' W
2	42° 45' N	71° 05' W
3	42° 45' N	71° 05' W
4	42° 45' N	71° 05' W
5	42° 45' N	71° 05' W
6	42° 45' N	71° 05' W
7	42° 45' N	71° 05' W
8	42° 45' N	71° 05' W
9	42° 45' N	71° 05' W
10	42° 45' N	71° 05' W

The map shows the location of the
 station relative to the
 river and the
 surrounding area.

Haverhill, N.H.
 Merrimack River
 Merrimack River Bridge
 Merrimack River Lock



HOOKSETT, N.H.

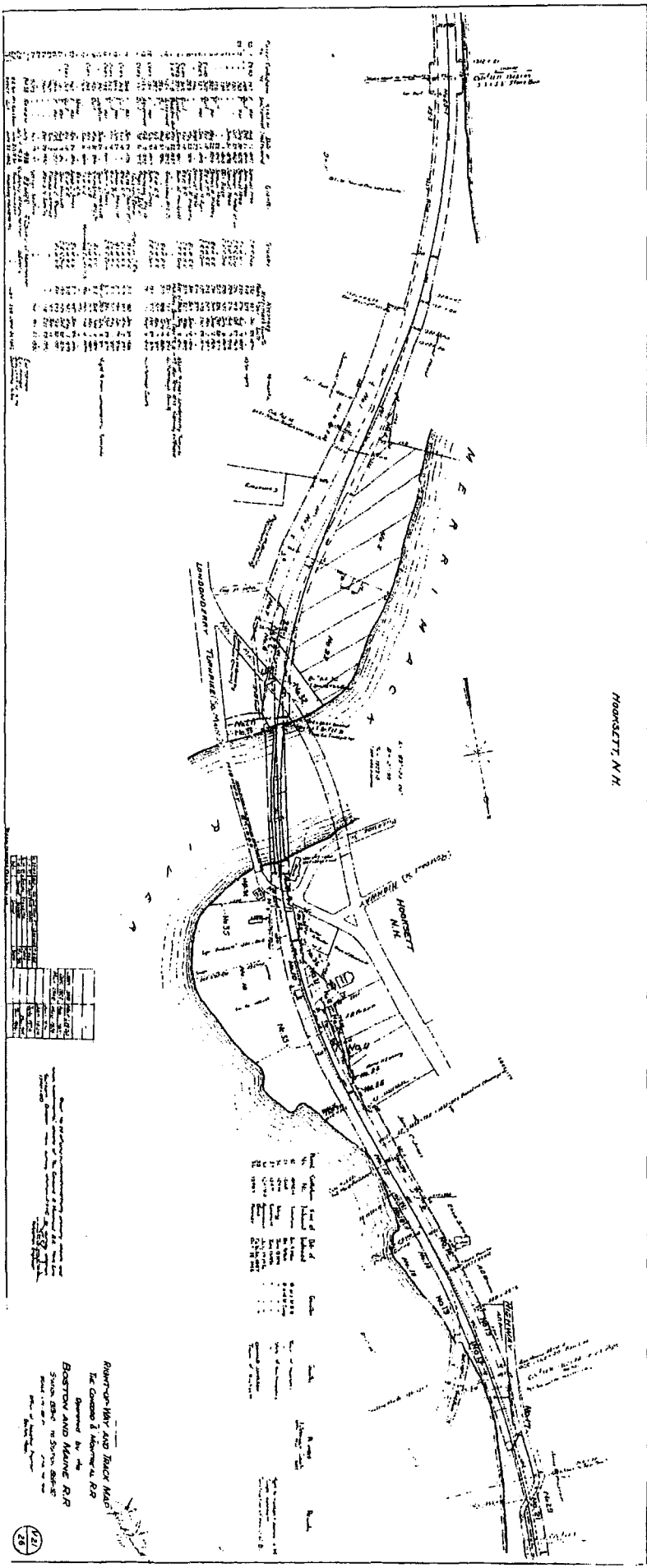


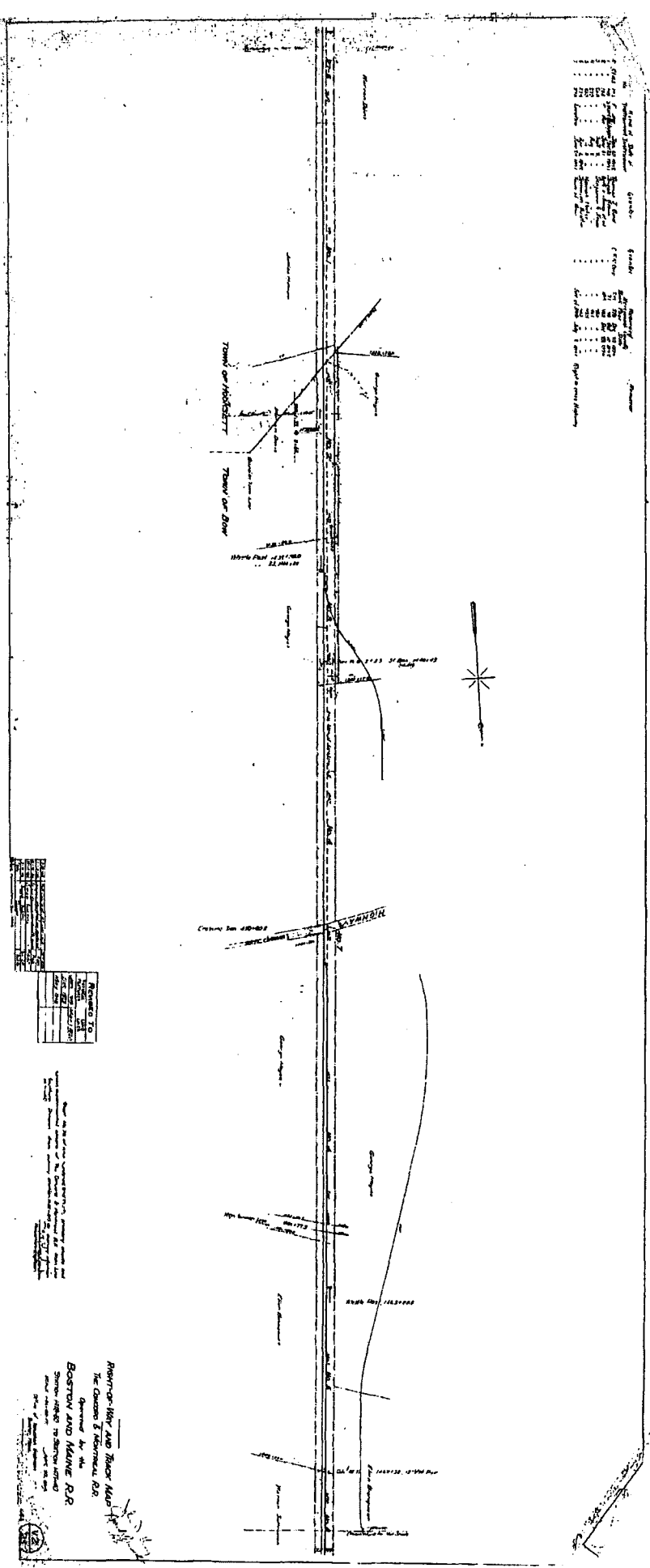
Table with multiple columns and rows of text, likely a schedule or list of track segments. The text is too small to read accurately but appears to be organized in a tabular format.

Table with multiple columns and rows of text, likely a schedule or list of track segments. The text is too small to read accurately but appears to be organized in a tabular format.

Notes and additional information related to the track layout, including references to specific track segments and distances.

Approved by the
Boston and Maine R.R.
Superintendent

Station	Grade	Profile	Remarks
1+00	10.00	10.00	
2+00	10.00	10.00	
3+00	10.00	10.00	
4+00	10.00	10.00	
5+00	10.00	10.00	
6+00	10.00	10.00	
7+00	10.00	10.00	
8+00	10.00	10.00	
9+00	10.00	10.00	
10+00	10.00	10.00	
11+00	10.00	10.00	
12+00	10.00	10.00	
13+00	10.00	10.00	
14+00	10.00	10.00	
15+00	10.00	10.00	
16+00	10.00	10.00	
17+00	10.00	10.00	
18+00	10.00	10.00	
19+00	10.00	10.00	
20+00	10.00	10.00	
21+00	10.00	10.00	
22+00	10.00	10.00	
23+00	10.00	10.00	
24+00	10.00	10.00	
25+00	10.00	10.00	
26+00	10.00	10.00	
27+00	10.00	10.00	
28+00	10.00	10.00	
29+00	10.00	10.00	
30+00	10.00	10.00	
31+00	10.00	10.00	
32+00	10.00	10.00	
33+00	10.00	10.00	
34+00	10.00	10.00	
35+00	10.00	10.00	
36+00	10.00	10.00	
37+00	10.00	10.00	
38+00	10.00	10.00	
39+00	10.00	10.00	
40+00	10.00	10.00	
41+00	10.00	10.00	
42+00	10.00	10.00	
43+00	10.00	10.00	
44+00	10.00	10.00	
45+00	10.00	10.00	
46+00	10.00	10.00	
47+00	10.00	10.00	
48+00	10.00	10.00	
49+00	10.00	10.00	
50+00	10.00	10.00	

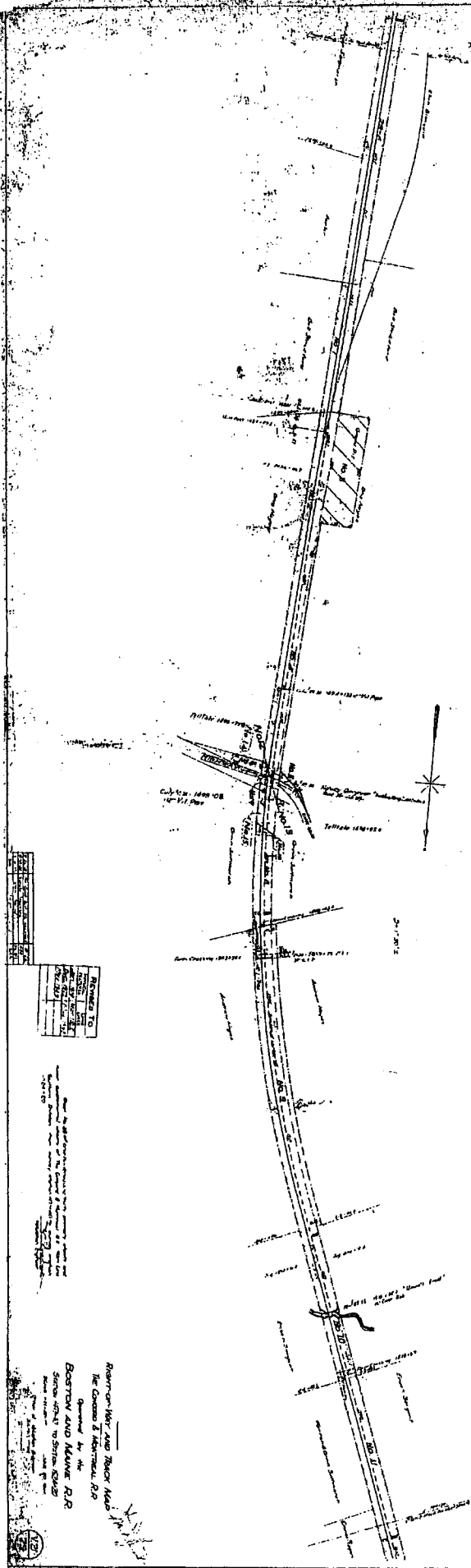


Station	Grade	Profile	Remarks
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2+00	10.00	10.00	
3+00	10.00	10.00	
4+00	10.00	10.00	
5+00	10.00	10.00	
6+00	10.00	10.00	
7+00	10.00	10.00	
8+00	10.00	10.00	
9+00	10.00	10.00	
10+00	10.00	10.00	
11+00	10.00	10.00	
12+00	10.00	10.00	
13+00	10.00	10.00	
14+00	10.00	10.00	
15+00	10.00	10.00	
16+00	10.00	10.00	
17+00	10.00	10.00	
18+00	10.00	10.00	
19+00	10.00	10.00	
20+00	10.00	10.00	
21+00	10.00	10.00	
22+00	10.00	10.00	
23+00	10.00	10.00	
24+00	10.00	10.00	
25+00	10.00	10.00	
26+00	10.00	10.00	
27+00	10.00	10.00	
28+00	10.00	10.00	
29+00	10.00	10.00	
30+00	10.00	10.00	
31+00	10.00	10.00	
32+00	10.00	10.00	
33+00	10.00	10.00	
34+00	10.00	10.00	
35+00	10.00	10.00	
36+00	10.00	10.00	
37+00	10.00	10.00	
38+00	10.00	10.00	
39+00	10.00	10.00	
40+00	10.00	10.00	
41+00	10.00	10.00	
42+00	10.00	10.00	
43+00	10.00	10.00	
44+00	10.00	10.00	
45+00	10.00	10.00	
46+00	10.00	10.00	
47+00	10.00	10.00	
48+00	10.00	10.00	
49+00	10.00	10.00	
50+00	10.00	10.00	

PORTER, HAY AND THORP MAP
 The Oregon & Portland R.R.
 Surveyed by the
 BOSTON AND MAINE R.R.
 Surveyed by the
 BOSTON AND MAINE R.R.

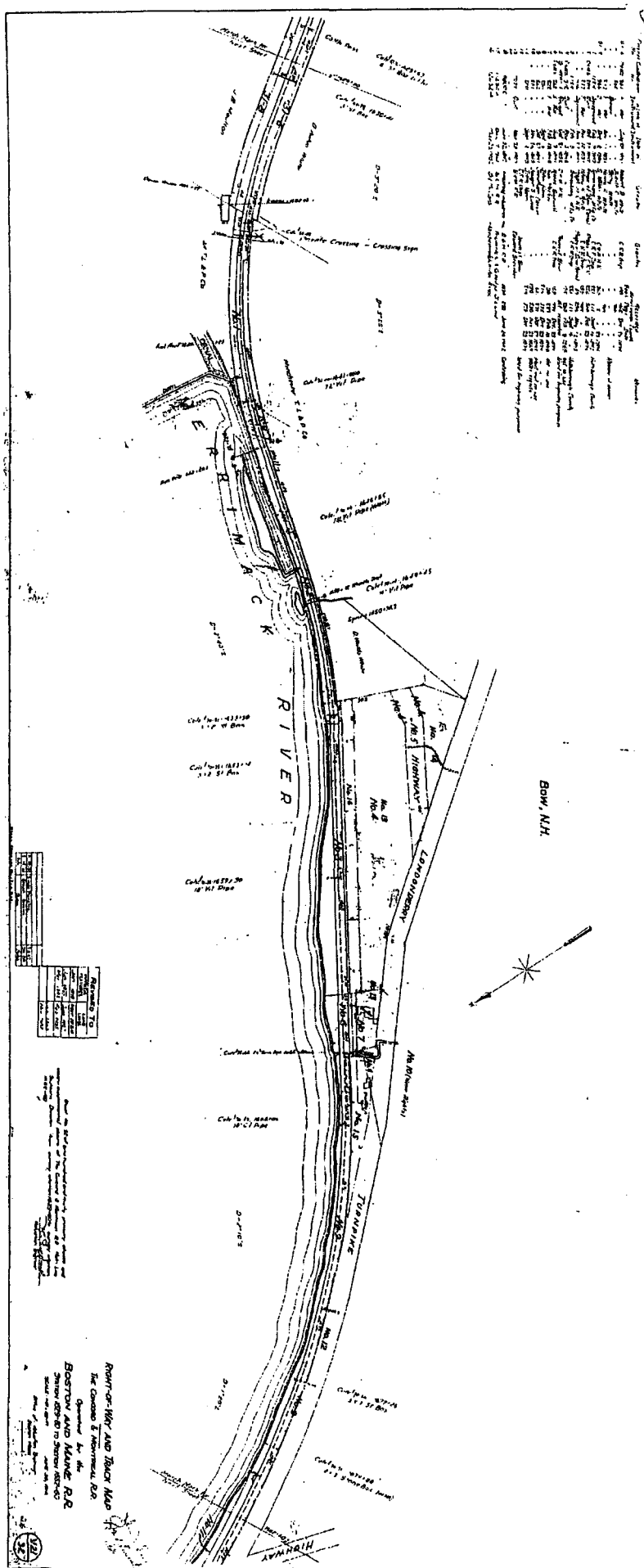
Station	Grade	Length	Area	Volume	Remarks
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2+00	10.00	100.00	100.00	100.00	
3+00	10.00	100.00	100.00	100.00	
4+00	10.00	100.00	100.00	100.00	
5+00	10.00	100.00	100.00	100.00	
6+00	10.00	100.00	100.00	100.00	
7+00	10.00	100.00	100.00	100.00	
8+00	10.00	100.00	100.00	100.00	
9+00	10.00	100.00	100.00	100.00	
10+00	10.00	100.00	100.00	100.00	
11+00	10.00	100.00	100.00	100.00	
12+00	10.00	100.00	100.00	100.00	
13+00	10.00	100.00	100.00	100.00	
14+00	10.00	100.00	100.00	100.00	
15+00	10.00	100.00	100.00	100.00	
16+00	10.00	100.00	100.00	100.00	
17+00	10.00	100.00	100.00	100.00	
18+00	10.00	100.00	100.00	100.00	
19+00	10.00	100.00	100.00	100.00	
20+00	10.00	100.00	100.00	100.00	
21+00	10.00	100.00	100.00	100.00	
22+00	10.00	100.00	100.00	100.00	
23+00	10.00	100.00	100.00	100.00	
24+00	10.00	100.00	100.00	100.00	
25+00	10.00	100.00	100.00	100.00	
26+00	10.00	100.00	100.00	100.00	
27+00	10.00	100.00	100.00	100.00	
28+00	10.00	100.00	100.00	100.00	
29+00	10.00	100.00	100.00	100.00	
30+00	10.00	100.00	100.00	100.00	
31+00	10.00	100.00	100.00	100.00	
32+00	10.00	100.00	100.00	100.00	
33+00	10.00	100.00	100.00	100.00	
34+00	10.00	100.00	100.00	100.00	
35+00	10.00	100.00	100.00	100.00	
36+00	10.00	100.00	100.00	100.00	
37+00	10.00	100.00	100.00	100.00	
38+00	10.00	100.00	100.00	100.00	
39+00	10.00	100.00	100.00	100.00	
40+00	10.00	100.00	100.00	100.00	
41+00	10.00	100.00	100.00	100.00	
42+00	10.00	100.00	100.00	100.00	
43+00	10.00	100.00	100.00	100.00	
44+00	10.00	100.00	100.00	100.00	
45+00	10.00	100.00	100.00	100.00	
46+00	10.00	100.00	100.00	100.00	
47+00	10.00	100.00	100.00	100.00	
48+00	10.00	100.00	100.00	100.00	
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50+00	10.00	100.00	100.00	100.00	

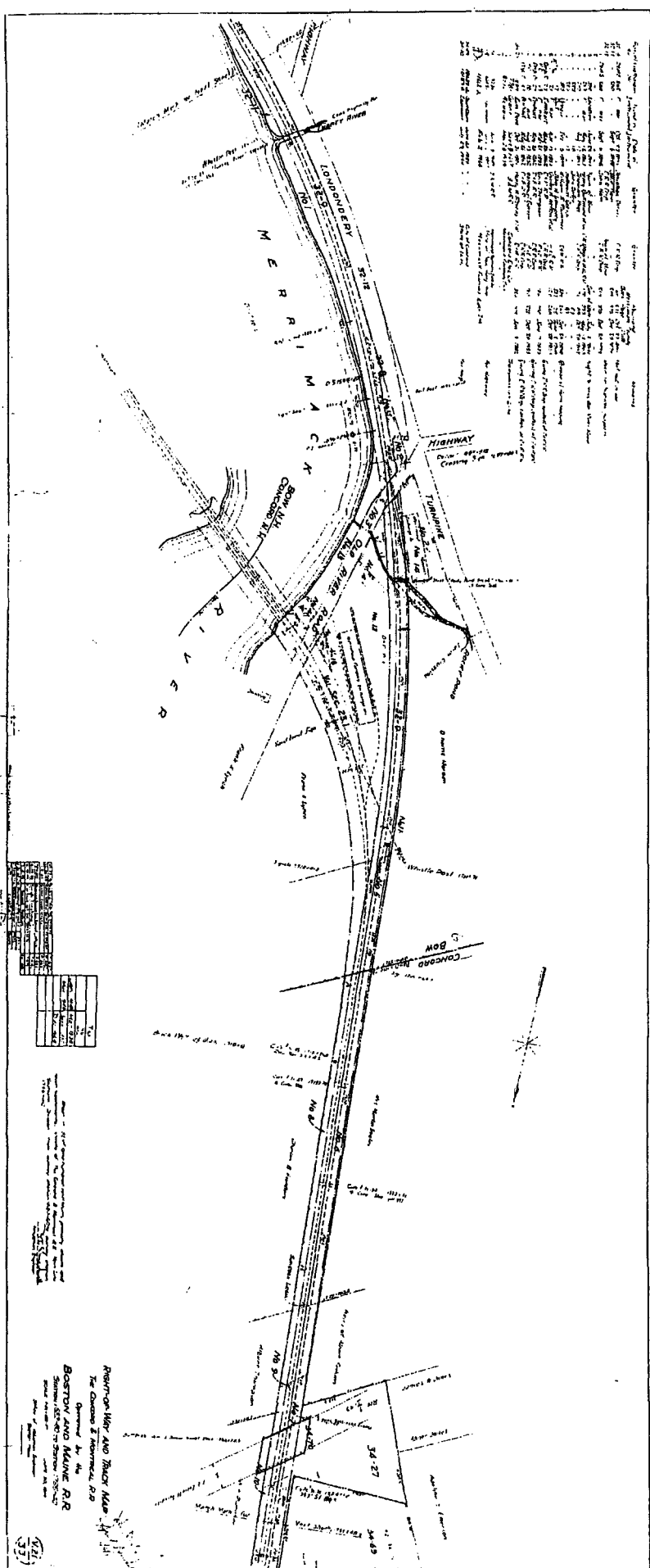
BOW, N.H.

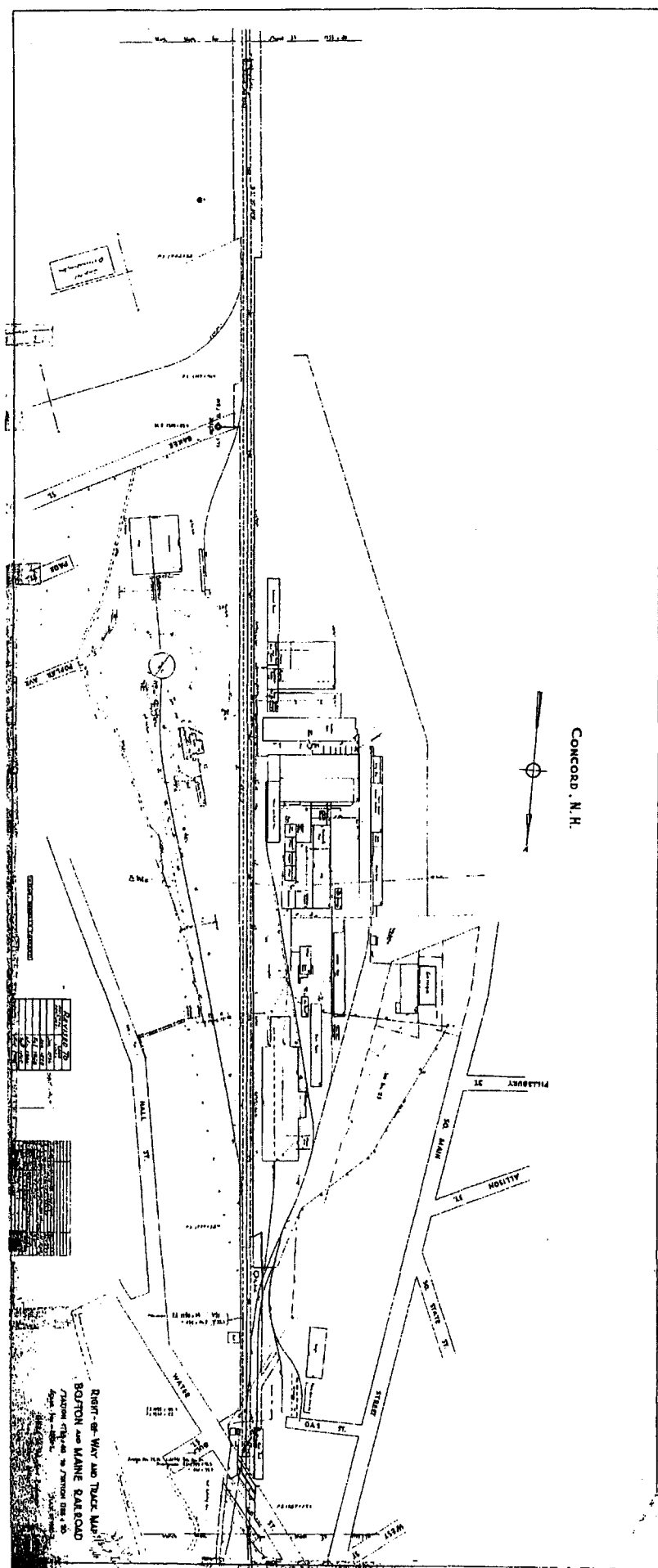


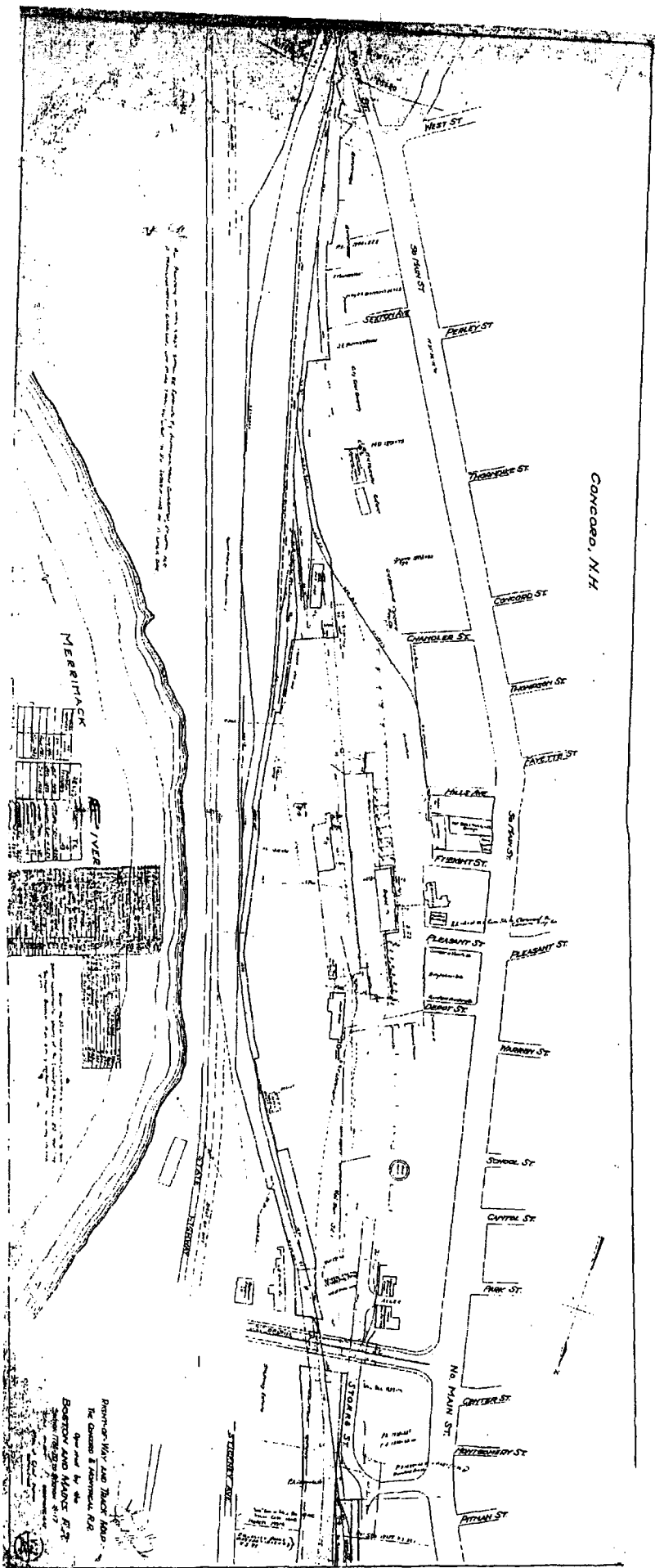
Station	Grade	Length	Area	Volume	Remarks
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2+00	10.00	100.00	100.00	100.00	
3+00	10.00	100.00	100.00	100.00	
4+00	10.00	100.00	100.00	100.00	
5+00	10.00	100.00	100.00	100.00	
6+00	10.00	100.00	100.00	100.00	
7+00	10.00	100.00	100.00	100.00	
8+00	10.00	100.00	100.00	100.00	
9+00	10.00	100.00	100.00	100.00	
10+00	10.00	100.00	100.00	100.00	
11+00	10.00	100.00	100.00	100.00	
12+00	10.00	100.00	100.00	100.00	
13+00	10.00	100.00	100.00	100.00	
14+00	10.00	100.00	100.00	100.00	
15+00	10.00	100.00	100.00	100.00	
16+00	10.00	100.00	100.00	100.00	
17+00	10.00	100.00	100.00	100.00	
18+00	10.00	100.00	100.00	100.00	
19+00	10.00	100.00	100.00	100.00	
20+00	10.00	100.00	100.00	100.00	
21+00	10.00	100.00	100.00	100.00	
22+00	10.00	100.00	100.00	100.00	
23+00	10.00	100.00	100.00	100.00	
24+00	10.00	100.00	100.00	100.00	
25+00	10.00	100.00	100.00	100.00	
26+00	10.00	100.00	100.00	100.00	
27+00	10.00	100.00	100.00	100.00	
28+00	10.00	100.00	100.00	100.00	
29+00	10.00	100.00	100.00	100.00	
30+00	10.00	100.00	100.00	100.00	
31+00	10.00	100.00	100.00	100.00	
32+00	10.00	100.00	100.00	100.00	
33+00	10.00	100.00	100.00	100.00	
34+00	10.00	100.00	100.00	100.00	
35+00	10.00	100.00	100.00	100.00	
36+00	10.00	100.00	100.00	100.00	
37+00	10.00	100.00	100.00	100.00	
38+00	10.00	100.00	100.00	100.00	
39+00	10.00	100.00	100.00	100.00	
40+00	10.00	100.00	100.00	100.00	
41+00	10.00	100.00	100.00	100.00	
42+00	10.00	100.00	100.00	100.00	
43+00	10.00	100.00	100.00	100.00	
44+00	10.00	100.00	100.00	100.00	
45+00	10.00	100.00	100.00	100.00	
46+00	10.00	100.00	100.00	100.00	
47+00	10.00	100.00	100.00	100.00	
48+00	10.00	100.00	100.00	100.00	
49+00	10.00	100.00	100.00	100.00	
50+00	10.00	100.00	100.00	100.00	

RIVERVIEW AND BLACK HAD
 THE CHURCH & HENTON, R.O.
 Operated by the
 BOSTON AND MAINE R.R.
 Since 1840 to 1870
 Since 1870 to 1880
 Since 1880 to 1890
 Since 1890 to 1900
 Since 1900 to 1910
 Since 1910 to 1920
 Since 1920 to 1930
 Since 1930 to 1940
 Since 1940 to 1950
 Since 1950 to 1960
 Since 1960 to 1970
 Since 1970 to 1980
 Since 1980 to 1990
 Since 1990 to 2000
 Since 2000 to 2010
 Since 2010 to 2020
 Since 2020 to 2030
 Since 2030 to 2040
 Since 2040 to 2050
 Since 2050 to 2060
 Since 2060 to 2070
 Since 2070 to 2080
 Since 2080 to 2090
 Since 2090 to 2100

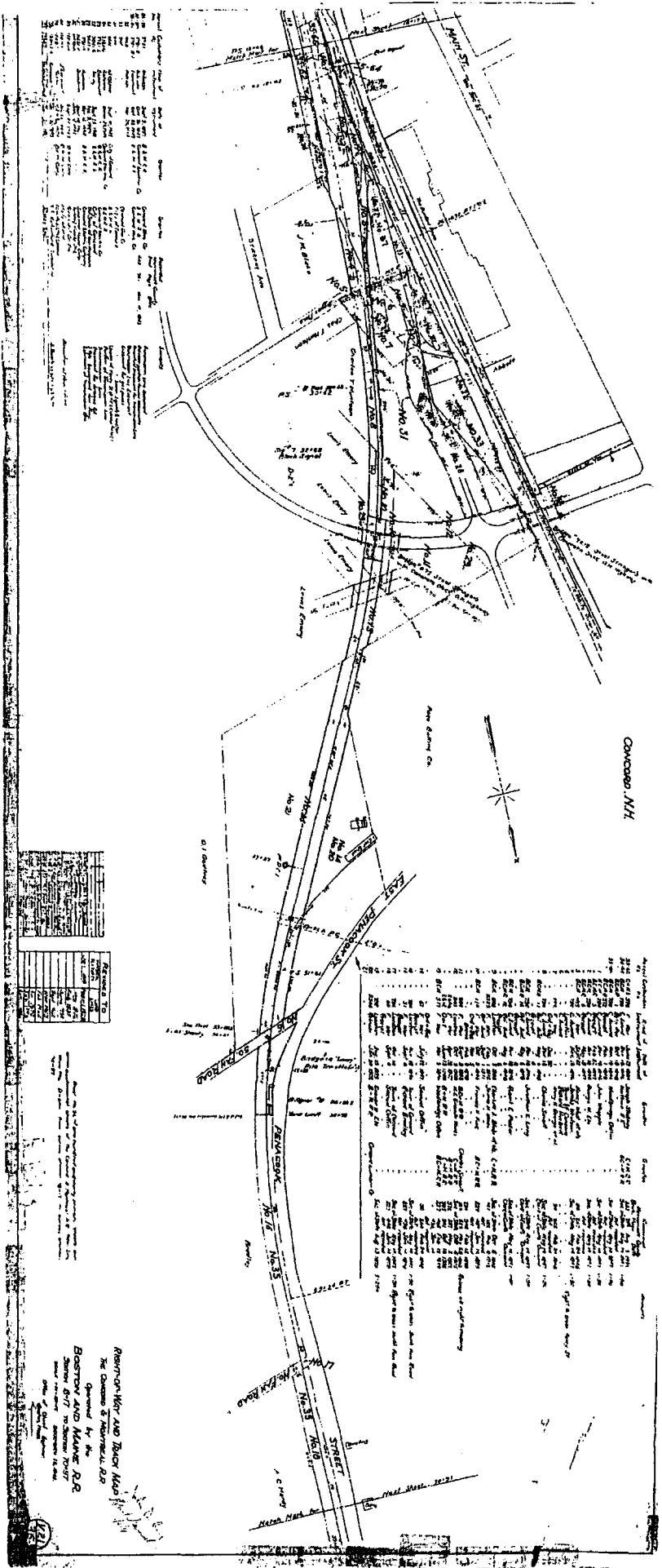








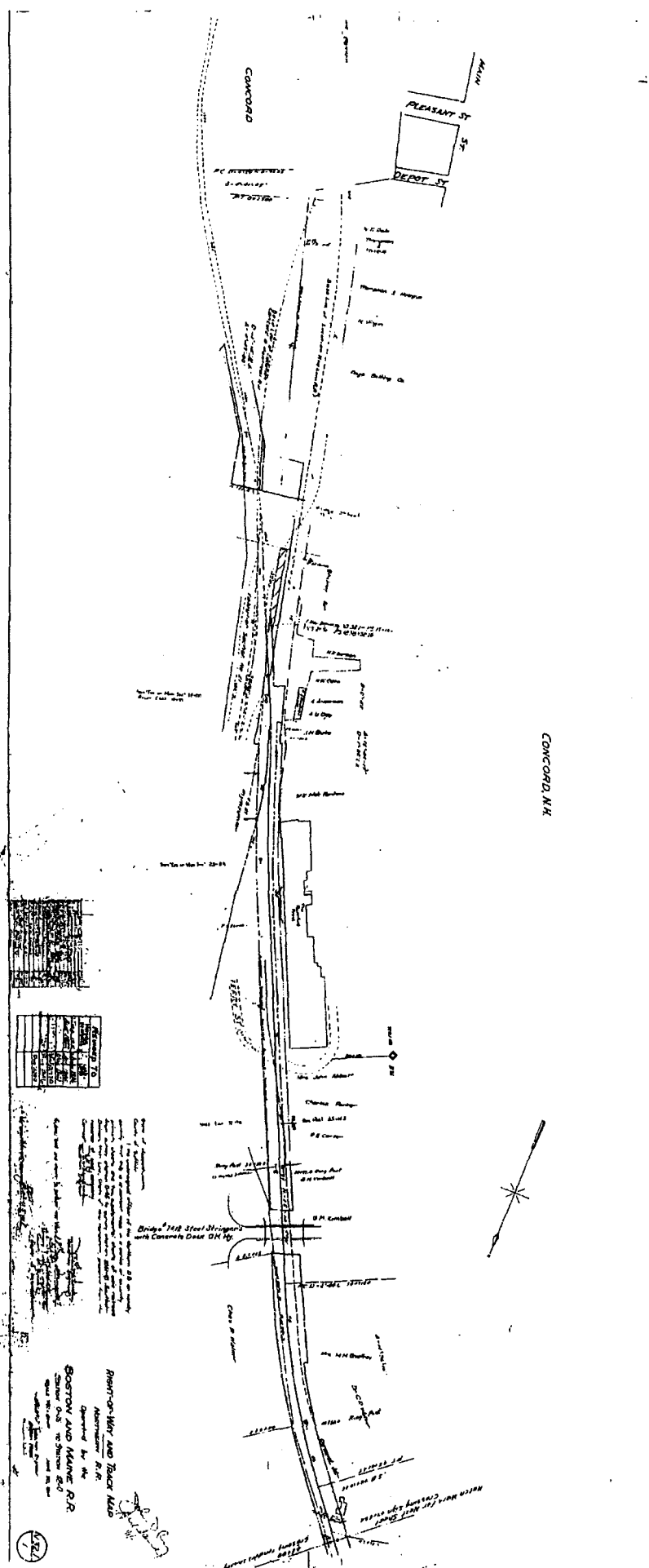
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The Concord & Merrimack R.R.
Concord, N.H.
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By the
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Concord, N.H.



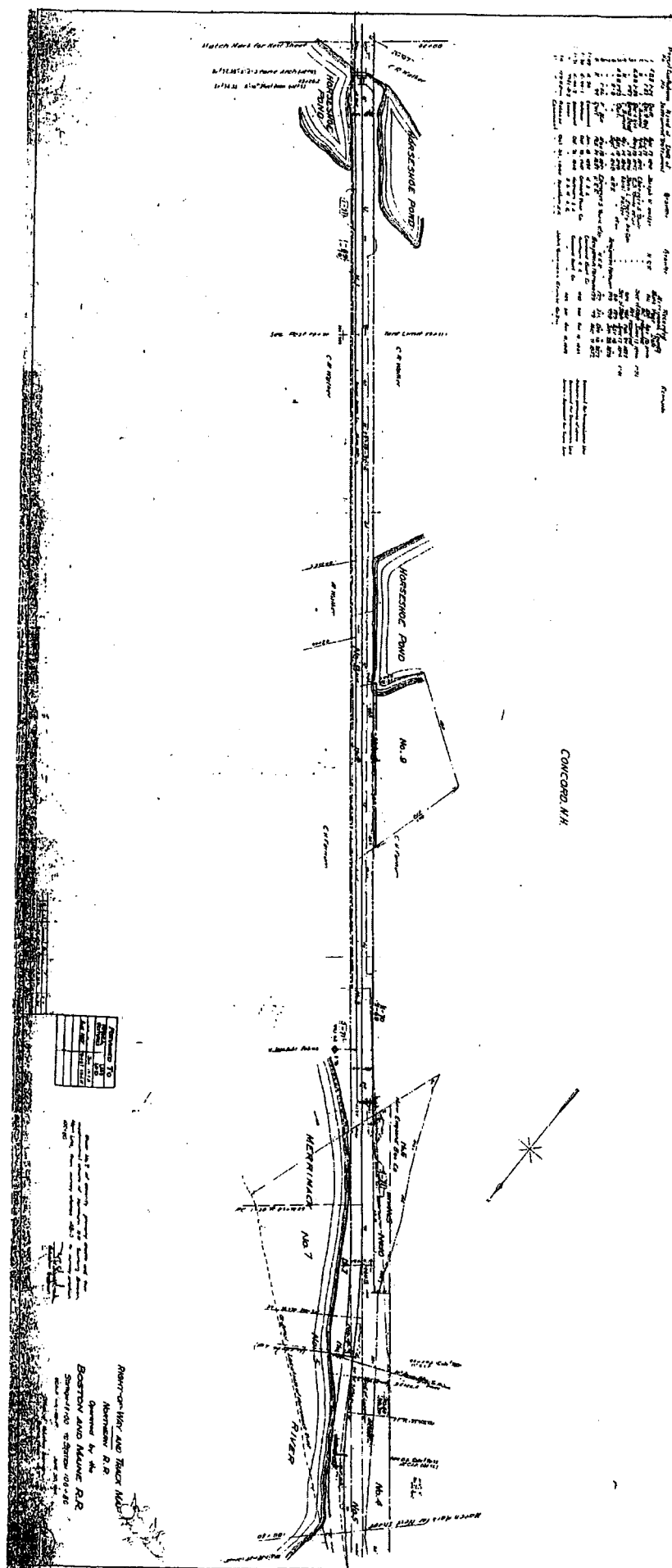
REMARKS TO	
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3	4
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17	18
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23	24
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77	78
79	80
81	82
83	84
85	86
87	88
89	90
91	92
93	94
95	96
97	98
99	100

REMARKS TO	
1	2
3	4
5	6
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9	10
11	12
13	14
15	16
17	18
19	20
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81	82
83	84
85	86
87	88
89	90
91	92
93	94
95	96
97	98
99	100

RIGHT-OF-WAY AND TRACK MAP
THE CONCORD & MAINE R.R.
Designed by the
BOSTON AND MAINE R.R.
Survey 8-17-1907
Survey 12-1-1907
Date 12-1-1907



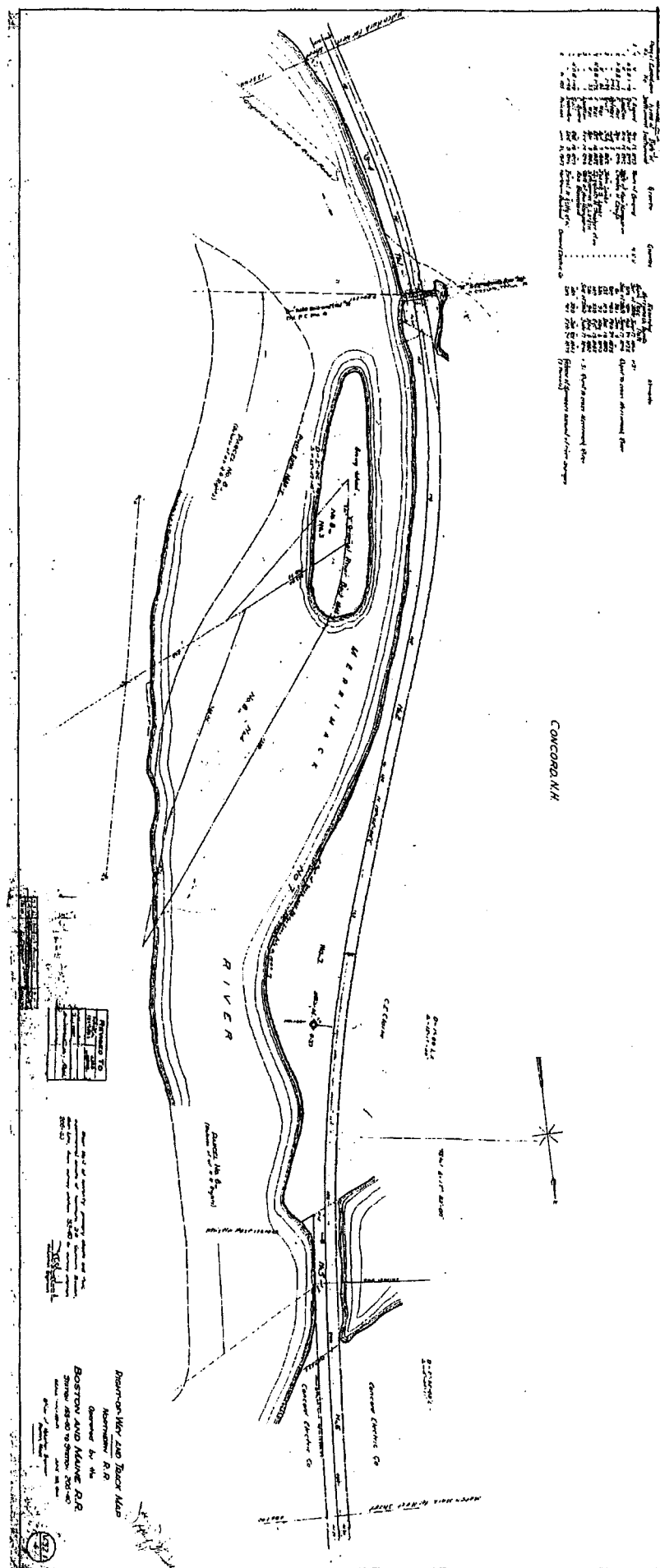
CONCORD, N.H.



Station	Distance	Remarks
0+00	0.00	Start of Section
0+10	0.10	Station 0+10
0+20	0.20	Station 0+20
0+30	0.30	Station 0+30
0+40	0.40	Station 0+40
0+50	0.50	Station 0+50
0+60	0.60	Station 0+60
0+70	0.70	Station 0+70
0+80	0.80	Station 0+80
0+90	0.90	Station 0+90
1+00	1.00	Station 1+00
1+10	1.10	Station 1+10
1+20	1.20	Station 1+20
1+30	1.30	Station 1+30
1+40	1.40	Station 1+40
1+50	1.50	Station 1+50
1+60	1.60	Station 1+60
1+70	1.70	Station 1+70
1+80	1.80	Station 1+80
1+90	1.90	Station 1+90
2+00	2.00	Station 2+00
2+10	2.10	Station 2+10
2+20	2.20	Station 2+20
2+30	2.30	Station 2+30
2+40	2.40	Station 2+40
2+50	2.50	Station 2+50
2+60	2.60	Station 2+60
2+70	2.70	Station 2+70
2+80	2.80	Station 2+80
2+90	2.90	Station 2+90
3+00	3.00	Station 3+00
3+10	3.10	Station 3+10
3+20	3.20	Station 3+20
3+30	3.30	Station 3+30
3+40	3.40	Station 3+40
3+50	3.50	Station 3+50
3+60	3.60	Station 3+60
3+70	3.70	Station 3+70
3+80	3.80	Station 3+80
3+90	3.90	Station 3+90
4+00	4.00	Station 4+00
4+10	4.10	Station 4+10
4+20	4.20	Station 4+20
4+30	4.30	Station 4+30
4+40	4.40	Station 4+40
4+50	4.50	Station 4+50
4+60	4.60	Station 4+60
4+70	4.70	Station 4+70
4+80	4.80	Station 4+80
4+90	4.90	Station 4+90
5+00	5.00	Station 5+00
5+10	5.10	Station 5+10
5+20	5.20	Station 5+20
5+30	5.30	Station 5+30
5+40	5.40	Station 5+40
5+50	5.50	Station 5+50
5+60	5.60	Station 5+60
5+70	5.70	Station 5+70
5+80	5.80	Station 5+80
5+90	5.90	Station 5+90
6+00	6.00	Station 6+00
6+10	6.10	Station 6+10
6+20	6.20	Station 6+20
6+30	6.30	Station 6+30
6+40	6.40	Station 6+40
6+50	6.50	Station 6+50
6+60	6.60	Station 6+60
6+70	6.70	Station 6+70
6+80	6.80	Station 6+80
6+90	6.90	Station 6+90
7+00	7.00	Station 7+00
7+10	7.10	Station 7+10
7+20	7.20	Station 7+20
7+30	7.30	Station 7+30
7+40	7.40	Station 7+40
7+50	7.50	Station 7+50
7+60	7.60	Station 7+60
7+70	7.70	Station 7+70
7+80	7.80	Station 7+80
7+90	7.90	Station 7+90
8+00	8.00	Station 8+00
8+10	8.10	Station 8+10
8+20	8.20	Station 8+20
8+30	8.30	Station 8+30
8+40	8.40	Station 8+40
8+50	8.50	Station 8+50
8+60	8.60	Station 8+60
8+70	8.70	Station 8+70
8+80	8.80	Station 8+80
8+90	8.90	Station 8+90
9+00	9.00	Station 9+00
9+10	9.10	Station 9+10
9+20	9.20	Station 9+20
9+30	9.30	Station 9+30
9+40	9.40	Station 9+40
9+50	9.50	Station 9+50
9+60	9.60	Station 9+60
9+70	9.70	Station 9+70
9+80	9.80	Station 9+80
9+90	9.90	Station 9+90
10+00	10.00	Station 10+00
10+10	10.10	Station 10+10
10+20	10.20	Station 10+20
10+30	10.30	Station 10+30
10+40	10.40	Station 10+40
10+50	10.50	Station 10+50
10+60	10.60	Station 10+60
10+70	10.70	Station 10+70
10+80	10.80	Station 10+80
10+90	10.90	Station 10+90
11+00	11.00	Station 11+00
11+10	11.10	Station 11+10
11+20	11.20	Station 11+20
11+30	11.30	Station 11+30
11+40	11.40	Station 11+40
11+50	11.50	Station 11+50
11+60	11.60	Station 11+60
11+70	11.70	Station 11+70
11+80	11.80	Station 11+80
11+90	11.90	Station 11+90
12+00	12.00	Station 12+00
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14+20	14.20	Station 14+20
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24+80	24.80	Station 24+80
24+90	24.90	Station 24+90
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25+80	25.80	Station 25+80
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27+70	27.70	Station 27+70
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33+20	33.	

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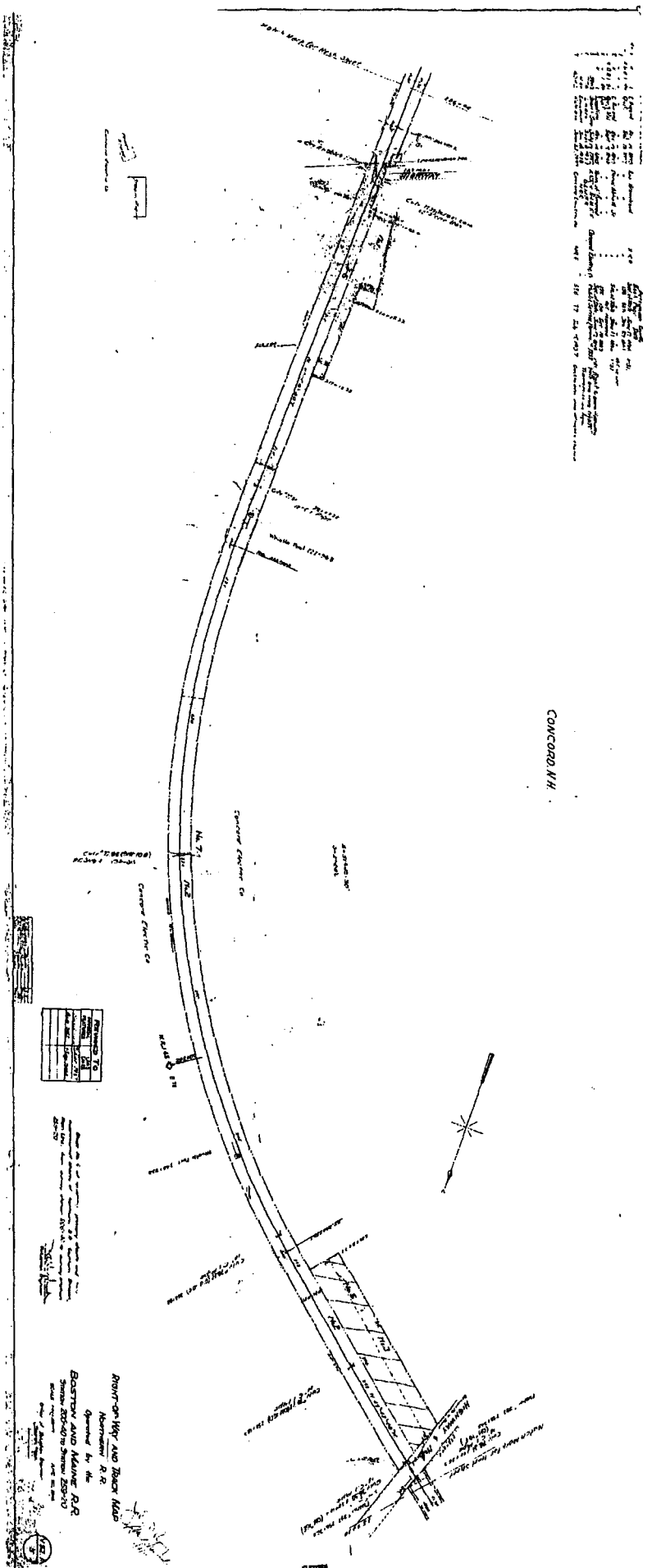
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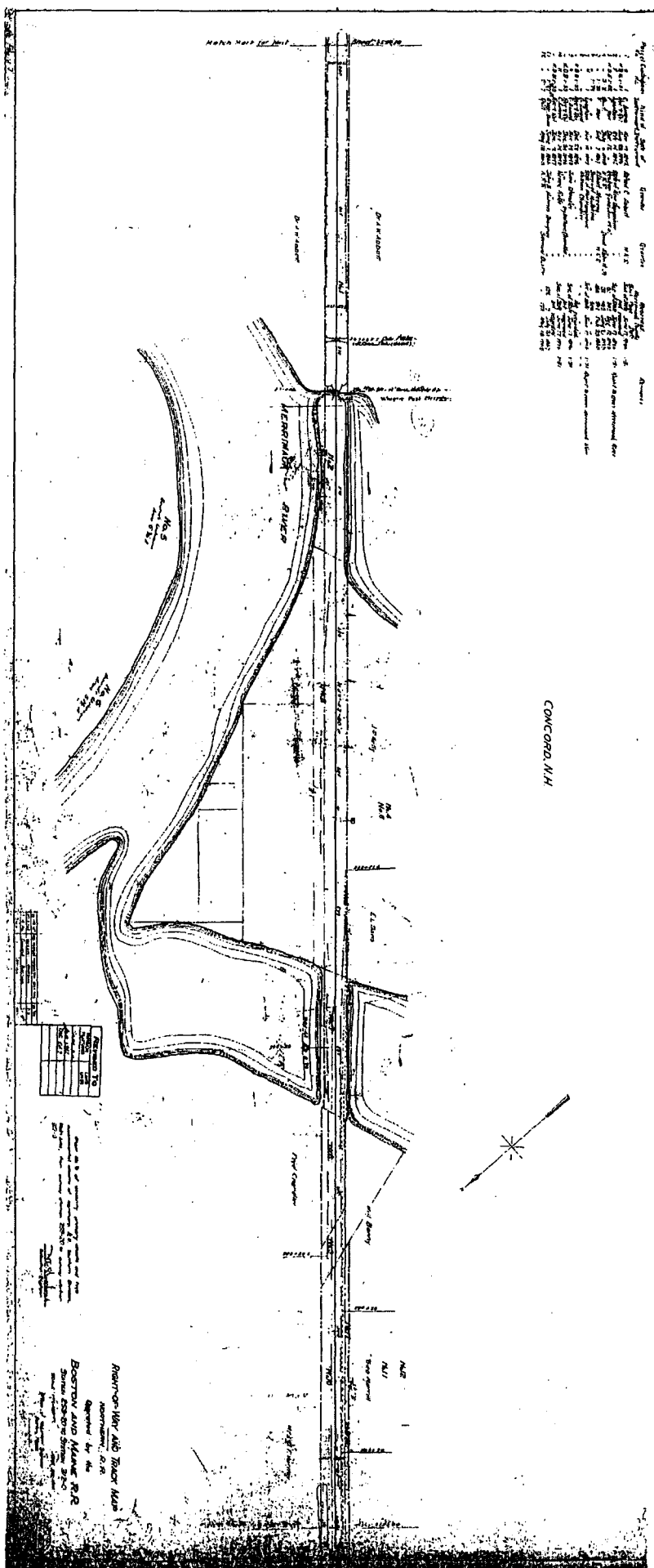
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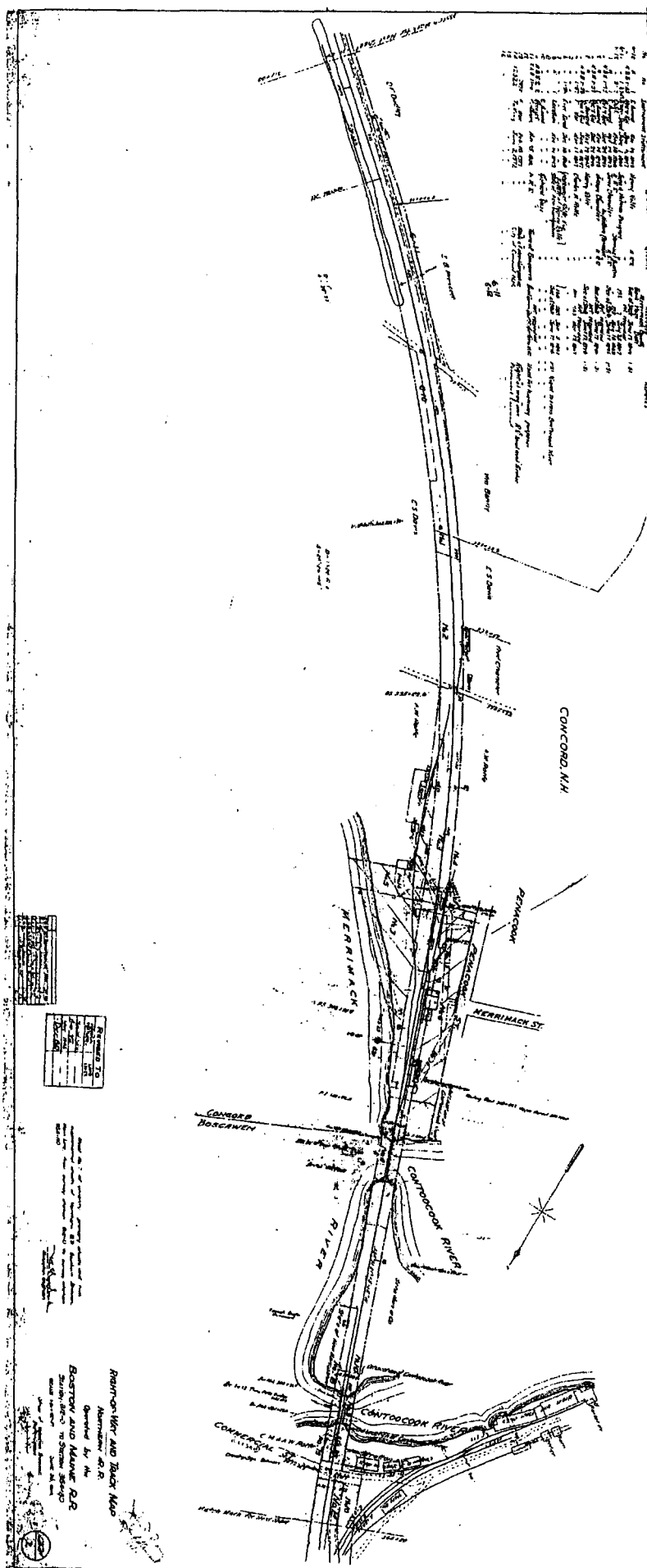
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 Surveyed by the
 Boston and Maine R.R.
 Surveyed by the
 Boston and Maine R.R.
 Surveyed by the
 Boston and Maine R.R.

CONCORD, N.H.



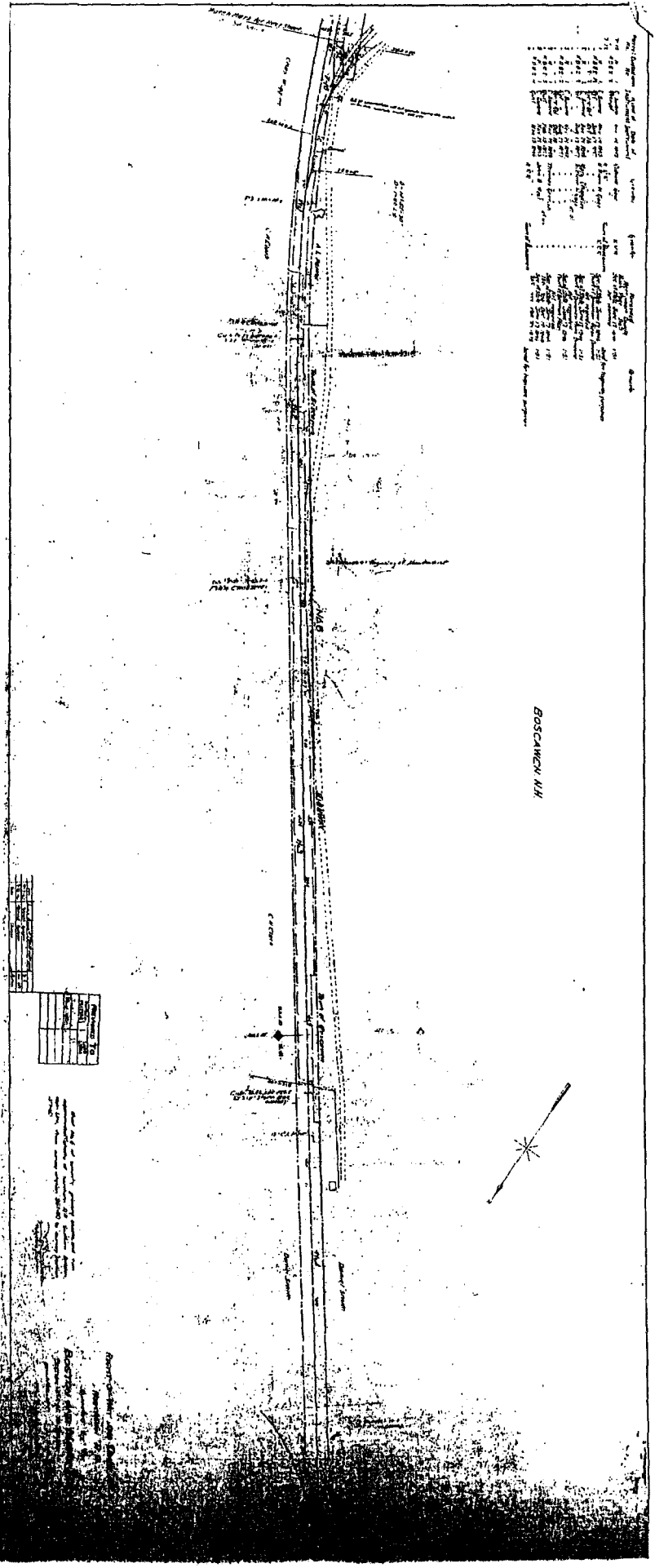
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1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937	1938	1939	1940	1941	1942	1943	1944	1945	1946	1947	1948	1949	1950	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	





Station	Distance from Station	Remarks
1.00	0.00	Start of section
1.00	0.10	...
1.00	0.20	...
1.00	0.30	...
1.00	0.40	...
1.00	0.50	...
1.00	0.60	...
1.00	0.70	...
1.00	0.80	...
1.00	0.90	...
1.00	1.00	End of section

BOSCHEN A.H.



Station	Distance from Station	Remarks
1.00	0.00	Start of section
1.00	0.10	...
1.00	0.20	...
1.00	0.30	...
1.00	0.40	...
1.00	0.50	...
1.00	0.60	...
1.00	0.70	...
1.00	0.80	...
1.00	0.90	...
1.00	1.00	End of section

EXHIBIT B

See attached

Exhibit D
Freight Main Line

WRML - Plaistow	Mile Post 274.65 to Mile Post 272.00	FRA Class IV(passenger/freight)	
Lowell Branch	CPF-LJ to CPF-297	FRA Class II	(freight)
	CPF-297 to CPF-LO	FRA Class I	(freight)
Stoney Brook	CPF-NC to CPF-303	FRA Class I	(freight)
	CPF-303 to CPF312	FRA Class II	(freight)

W. N. & P – Worcester Branch

Worcester Main	Harvard to Mile Post 5	FRA Class II	(freight)
	Mile Post 5 to Barber (2.92)	FRA Class I	(freight)

New Hampshire Main Line

Northern Main line	State Line (34.3) to CPN-9	FRA Class II	(freight)
	CPN-9 to Bridge 39.22	FRA Class I	(freight)
	Bridge 39.22 to South Manchester	FRA Class II	(freight)
	South Manchester to CPN-28	FRA Class I	(freight)
	CPN-28 to Bow (mile post 42)	FRA Class II	(freight)
	Bow to Concord	FRA Class I	(freight)
	Concord to Boscawen	Excepted (213.4) Note: track not in use	

2011 PAS TRACKAGE RIGHTS AGREEMENT



2011 00030928

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Page: 1 of 67 03/29/2011 10:20 AM WD

EXECUTION COPY

2011 TRACKAGE RIGHTS AGREEMENT

BY AND AMONG

THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

AND

PAN AM SOUTHERN LLC

INTRODUCTION AND RECITALS

The Massachusetts Bay Transportation Authority (the "MBTA") and Pan Am Southern LLC, a Delaware limited liability company ("PAS") enter into this 2011 Trackage Rights Agreement (the "Agreement") as of January 10, 2011 (the "Effective Date") in order to memorialize their mutual understanding with regard to certain rights to conduct passenger services on certain property currently owned and operated by PAS, and for the purpose of defining their respective rights and obligations with respect to the same.

WHEREAS, the MBTA is the owner of certain railroad lines (the "1976 Properties") pursuant to an Indenture dated December 24, 1976 from Robert W. Meserve and Benjamin H. Lacy, as trustees of the property of the Boston and Maine Corporation (the "1976 Deed");

WHEREAS, pursuant to that certain Settlement Agreement of October 20, 2008 among the Executive Office of Transportation and Public Works for the Commonwealth of Massachusetts, the MBTA, Norfolk Southern Railway Company, and Pan Am Railways, PAS currently conducts freight rail operations over portions of the 1976 Properties;

WHEREAS, PAS owns the fee interest in certain railroad lines described herein as the PAS Rail Properties which intersect the 1976 Properties and connect some portions of the 1976 Properties with other rail lines owned by the MBTA;

WHEREAS, PAS desires to grant certain trackage rights and an option to purchase with respect to the PAS Rail Properties to the MBTA, and the MBTA wishes to acquire such trackage rights and option to purchase upon the terms and conditions set forth in this Agreement;

NOW, THEREFORE, the Parties agree as follows:

SECTION 1 DEFINITIONS.

"Appropriate Statutory and Regulatory Authority" means 49 U.S.C. §10903, *et seq.* and 49 C.F.R.. Part 1152 and the STB's interpretations thereof.

"Binding Price Notice" shall have the meaning set forth in Section 6.2(b)(1).

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"Capacity Study" shall have the meaning set forth in Section 4.1.

"Commuter Rail Commencement Date" shall have the meaning set forth in Section 4.1.

"Commuter Rail Election" means the delivery of a Commuter Rail Election Notice by the MBTA to PAS and the commencement of MBTA Commuter Rail Services on such portion of the rail properties described in such Commuter Rail Election Notice.

"Commuter Rail Election Notice" shall have the meaning set forth in Section 4.1.

"Controlling Party" has the meaning set forth in Section 8.1(a).

"Direct Costs" means direct expenses incurred by the Controlling Party in performing any Force Account Work or by a Party in performing Enhanced Maintenance Services, without limitation, the cost of associated employee benefits, materials and contracted services, as described on Exhibit C, Direct Costs.

"Effective Date" shall have the meaning set forth in the recitals of this Agreement.

"Effective Interest Rate" means the lesser of (i) twelve percent (12%) per annum or (ii) the fluctuating rate per annum equal to the Prime Rate plus two percent (2.0%). "Prime Rate" means the Prime Rate as from time to time published in the Money Rates Section of *The Wall Street Journal*. The rate described in clause (ii) of this definition shall change on the date of each change in the Prime Rate, and if such change results in a change to the Effective Interest Rate applicable to any amount due under this agreement, the new Effective Interest Rate shall be applied as of such date.

"Enhanced Maintenance Services" shall mean any maintenance, inspections, equipment, renewal or the like that is required to meet the Enhanced Maintenance Standard, as well as maintenance and renewal services required for any Infrastructure Improvements and any Supplemental Infrastructure Improvements.

"Enhanced Maintenance Standard" shall mean, (1) in the case of the Level 1 and Level 2 Rail Properties, the increased level and type of maintenance, inspection, equipment and renewal that is required to provide passenger service on a previously freight-only segment of line, whether or not such passenger service results in a change to the FRA Classification of the line segment as shown on Exhibit D attached hereto, or (2) in the case of the MBTA Rail Properties, the increased level and type of maintenance, inspection, equipment and renewal required for PAS Freight Rail Service above the standards set by the FRA Track Safety Standards for the speeds at which the MBTA Commuter Rail Services trains are operated, plus, in either case, any maintenance and renewal services required for any Infrastructure Improvements.

"Exercise Notice" shall have the meaning set forth in Section 6.2(a).

"Force Account Work" means work that PAS is obligated to perform pursuant to this Agreement, which the MBTA may direct PAS to complete pursuant to Section 8 herein.

"FRA" means the Federal Railroad Administration.

"Hazardous Materials" means and includes asbestos, flammable materials, explosives, radioactive or nuclear substances, polychlorinated biphenyls, other carcinogens, oil and other petroleum products, radon gas, urea formaldehyde, chemicals, gases, solvents, pollutants or contaminants that could be a detriment or pose a danger to the environment or to the health or safety of any Person, and any other hazardous or toxic materials, wastes and substances which are defined, determined or identified as such in any and all applicable federal, state and local laws, by-laws, rules, regulations, codes and ordinances, or any judicial or administrative interpretations thereof, and the requirements of any governmental agency or authority having jurisdiction with respect thereto, applicable to the regulation or protection of the environment, the health and safety of Persons and property and all other environmental matters and shall include, without limitation, all orders, decrees, judgments and rulings imposed through any public or private enforcement proceedings by an entity with appropriate jurisdiction and authority relating to Hazardous Materials or to the existence, use, discharge, release, containment, transportation, generation, storage, management or disposal thereof, or otherwise regulating or providing for the protection of the environment and relating to Hazardous Materials, or to the existence, use, discharge, release or disposal thereof; including, without limitation the following laws: the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §1801 et seq.), the Safe Drinking Water Act (42 U.S.C. §300(f) et seq.), the Pollution Prevention Act (42 U.S.C. §13101 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §136 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §6901 et seq.), the Federal Clean Water Act (33 U.S.C. §1251 et seq.), the Federal Clean Air Act (42 U.S.C. §7401 et seq.) and Mass. Gen. Laws, Ch. 21E.

"Infrastructure Improvements" shall have the meaning set forth in Section 4.1.

"Infrastructure Improvement Activities" means all construction and construction-related activities (including but not limited to applicable engineering, permitting and remediation) reasonably necessary for the completion of Infrastructure Improvements or Supplemental Infrastructure Improvements.

"Level 1 Rail Properties" shall mean that portion of the PAS Freight Rail Properties that are owned by PAS and defined in Exhibit A as Level 1 Rail Properties, for which the MBTA has not exercised the Commuter Rail Election.

"Level 2 Rail Properties" shall mean that portion of the PAS Freight Rail Properties that are owned by PAS for which the MBTA has exercised the Commuter Rail Election, as listed on Exhibit A as such exhibit may be updated from time to time by the Parties as set forth in Section 4.4.

"Maintenance Services" means all actions necessary or required for the maintenance of the rights-of-way, tracks, bridges, signals, communications equipment and all appurtenances of any relevant section of the PAS Freight Rail Properties or the MBTA Rail Properties in accordance with the Maintenance Standard.

"Maintenance Standard" means, with respect to the Level 1 and Level 2 Rail Properties, the FRA Classification of the track, which FRA Classifications for the applicable track segments as of the Effective Date are set forth on Exhibit D, and with respect to the MBTA Rail Properties, the standards set by the FRA Track Safety Standards for the speeds at which the MBTA Commuter Rail Services trains are operated.

"MBTA" means the Massachusetts Bay Transportation Authority, a body politic and corporate created by and acting pursuant to Chapter 161A of the General Laws of the Commonwealth of Massachusetts, as amended.

"MBTA Commuter Rail Services" means all of the rail operations, including movement of the MBTA materials and equipment, services and activities performed by the MBTA and its commuter rail Operating Contractor (or their respective assignees or designees) in connection with the provision of commuter rail service in the Commonwealth of Massachusetts.

"MBTA Employees" shall mean the employees and agents of the MBTA, and the MBTA's operating contractors and said contractors' employees.

"MBTA's Estimated Fair Market Value" shall have the meaning set forth in Section 6.2(a).

"MBTA Rail Properties" shall mean any portion of the PAS Freight Rail Properties acquired by the MBTA pursuant to the Option to Purchase. Once acquired by the MBTA, such properties shall cease to be PAS Freight Rail Properties for all purposes under this Agreement.

"MBTA Rail Properties Deed" shall mean any deed transferring any of the PAS Freight Rail Properties to the MBTA pursuant to the Option to Purchase or otherwise, which shall reserve to PAS the Retained Easement.

"MBTA Termination Notice" shall have the meaning set forth in Section 5.4.

"Non-Revenue Use" means use of right of way by trains operated to relocate equipment from one point to another for which no fee is charged for the movement of passengers. Non-Revenue Use includes, without limitation, (1) relocation of empty passenger equipment; (2) movement of material and equipment used for maintenance of the railroad by the same railroad and (3) movement of self-powered track maintenance and inspection equipment. For avoidance of doubt, excursion trains shall not be included in the definition of Non-Revenue Use.

"Operating Contractor" means any entity contracted with by the MBTA to provide commuter rail services on behalf of the MBTA.

"Option Property" shall have the meaning set forth in Section 6.2(a).

"Option to Purchase" shall have the meaning set forth in Section 6.1.

"PAS Employees" shall mean the employees and agents of PAS, and PAS's operating contractors and said contractors' employees.

"PAS Freight Rail Properties" shall mean Level 1 Rail Properties and Level 2 Rail Properties, as well as the Worcester Main Line property. The PAS Freight Rail Properties shall mean the real property owned by PAS described on Exhibit A hereto and shown on the valuation plans attached as part of such Exhibit A, with the exception of the areas marked with cross-hatching on such valuation plans, provided, however, that the definition of PAS Freight Rail Properties shall include, be modified by, and be subject to the handwritten notes on such valuation plans signed by representatives of both PAS and the MBTA. For avoidance of doubt, the Worcester Main Line property is included in this Agreement solely with respect to the Option to Purchase described in Section 6, and for the sake of clarity, property acquired by PAS subsequent to the Effective Date is not included in the PAS Freight Rail Properties.

"PAS Freight Rail Service" means the present and future full range of freight rail services and activities performed by PAS on the Level 1 Rail Properties, the Level 2 Properties and/or the MBTA Rail Properties and other activities permitted or required under this Agreement.

"Party" means each of the MBTA and PAS.

"Parties" means the MBTA and PAS.

"Person" means any individual, corporation, partnership, association, trust or any other entity or organization, including, without limitation, a government, a public agency, political instrumentality or political subdivision or authority.

"Price Rejection Notice" shall have the meaning set forth in Section 6.2(b)(i).

"Purchase Price" shall have the meaning set forth in Section 6.2(b).

"Retained Easement" means a reserved, retained, perpetual easement for freight rail service over any MBTA Rail Properties acquired pursuant to the exercise of the Option to Purchase which shall provide PAS, or its designee, with the exclusive right to provide freight service and other rights. As described in Section 7.2 herein, the terms of this Agreement that explicitly govern the rights and obligations of the Parties with respect to the MBTA Rail Properties shall be reflected in the Retained Easement; other terms and conditions governing the Retained Easement shall be substantially consistent with the provisions of the 1976 Deed.

"Revenue Service" means the movement of passengers and goods other than MBTA Employees regardless of whether a transportation charge is levied, and shall include the MBTA Commuter Rail Service.

"Service Suspension" means the suspension of PAS Freight Rail Service in order to perform the Infrastructure Improvement Activities.

"STB" means the Surface Transportation Board.

"Supplemental Infrastructure Improvements" shall have the meaning set forth in Section 4.1.

SECTION 2 CATEGORIES OF RAIL PROPERTIES

As shown on Exhibit A hereto, the properties subject to this Agreement shall be classified as Level 1 Rail Properties, Level 2 Rail Properties, and MBTA Rail Properties, with the exception of the Worcester Main Line property described on Exhibit A, which shall be considered a PAS Freight Rail Property but not a Level 1 Rail Property or a Level 2 Rail Property. The rights and responsibilities of the parties with respect to each category of property are set forth in Sections 3, 4, and 5 below. The MBTA may elect to convert Level 1 Properties to Level 2 Rail Properties according to the procedures set forth in Section 4 below, and may convert PAS Freight Rail Properties to MBTA Rail Properties by exercising the option described in Section 6 below. Upon the conversion of a property to a different category, the Parties shall amend Exhibit A to reflect such change.

SECTION 3 LEVEL 1 RAIL PROPERTIES

3.1 MBTA's General Use

Subject to the provisions of this Agreement, the MBTA, either directly or through its Operating Contractor, may enter upon and utilize the tracks and related operating facilities on the Level 1 Rail Properties for Non-Revenue Use, provided that such use does not unreasonably interfere with PAS's Freight Rail Service. Except as otherwise provided in Section 3.2, the MBTA may not use the Level 1 Rail Properties for Revenue Service.

3.2 Occasional Use.

Upon the prior written consent of PAS, which consent shall not be unreasonably withheld, conditioned or delayed, and the performance of any Enhanced Maintenance Services that may be reasonably necessary to provide for safe and efficient operations, the MBTA may occasionally divert, as necessary, MBTA Revenue Service over the Level 1 Rail Properties provided that such use does not unreasonably interfere with PAS's Freight Rail Service. The use of any portion of the Level 1 Rail Properties by the MBTA in accordance with this Section 3.2 shall not require the change in category of such portion to Level 2 Rail properties, nor be deemed to be an exercise of the MBTA Commuter Rail Option with respect to such portion and shall not convert any portion of the PAS Freight Rail Properties to MBTA Rail Properties.

3.3 Dispatching.

PAS shall provide dispatching services for the Level 1 Rail Properties, and shall establish a dispatching protocol for the Level 1 Rail Properties that (i) will minimize negative impacts on each Party's trains, and (ii) will allow reasonable flexibility within the structure described herein in order to accommodate the movement of each other's trains, *provided however*, that PAS shall have the exclusive right to schedule freight trains.

3.4 Control and Management.

(a) Except as otherwise provided herein, PAS retains the exclusive right to exercise and to perform, or to delegate or subcontract to another entity, the performance of the management, regulatory and operational control of any and all rail service over Level 1 Rail Properties including, without limitation, dispatching and control of all trains. In the exercise of its control over the Level 1 Rail Properties, PAS will give priority to PAS freight trains over all other train scheduling, dispatching and control, but will make all reasonable efforts to expedite the movement of MBTA trains, including expediting repairs to lines, removing obstructions, and scheduling regular maintenance and repair programs at hours which will not unreasonably interfere with such movement.

(b) PAS's contractors and subcontractors performing work or services on Level 1 Rail Properties shall perform and complete their respective work or services in accordance with this Agreement for the provision of such work or services.

3.5 Maintenance

(a) PAS shall provide all Maintenance Services for the Level 1 Rail Properties. All Maintenance Services shall be undertaken in a manner so as to minimize interference with train operations. In all circumstances where a track outage is required for the performance of maintenance that is likely to affect MBTA's operations (except emergency maintenance services), such maintenance work shall be scheduled and PAS shall provide written notice to the MBTA of such maintenance work at least fifteen (15) days in advance of any such track outage if practical.

(b) If the MBTA requests that PAS maintain any portion of the Level 1 Rail Properties to an Enhanced Maintenance Standard, PAS shall perform all required Enhanced Maintenance Services, and the MBTA shall be responsible for any incremental Direct Costs of the Enhanced Maintenance Services. PAS shall provide the MBTA with at least thirty (30) days prior written notice of any planned changes to the Maintenance Standard that are likely to affect the MBTA's operations. In all circumstances where a track outage is required for the performance of maintenance (except emergency maintenance services), such maintenance work shall be scheduled and the PAS shall provide written notice to the MBTA of such maintenance work at least fifteen (15) days in advance of any such track outage.

(c) PAS shall provide and furnish all labor, administrative, professional, and supervisory personnel necessary for its performance of the Maintenance Services under this Section. All PAS personnel or PAS contractor personnel involved in any aspect of providing services under this Agreement shall be subject to the direction, supervision, and control of PAS, and not the MBTA. PAS shall be solely responsible for all labor relations issues relating to PAS Employees that arise in connection with the performance of services under this Agreement.

(d) Unless otherwise stated explicitly in this Agreement, PAS shall be responsible for the costs of materials, equipment, management, and other expenses required for its performance of the Maintenance Services under this Section. If the MBTA desires construction, alterations or improvements on the Level 1 Rail Properties, it shall submit a request to PAS in writing which specifies the work which the MBTA requests PAS to perform on the MBTA's account. Provided that such work would not unreasonably interfere with PAS Freight Rail Services, PAS shall perform such work at the MBTA's sole cost and expense pursuant to Section 8. All such modifications and improvements shall be considered Infrastructure Improvements, the cost of maintenance and renewal of which shall be borne solely by MBTA.

(e) In the event that PAS fails to provide Maintenance Services pursuant to this Section and such failure will have a material adverse effect on the MBTA's operations on the Level 1 Rail Properties, the MBTA may after notice to PAR and PAS's failure to perform the Maintenance Services within seven (7) days, at its option, either with or without the consent or request of Pan Am, maintain the Level 1 Rail Properties and PAS shall reimburse the MBTA for direct costs incurred in rendering such Maintenance Services. The MBTA's decision to provide Maintenance Services pursuant to this Section shall not be considered a waiver of any other remedies available to the MBTA under this Agreement including, without limitation, the remedies set forth in Section 13.

(f) The provisions of this Section do not apply to or otherwise affect the Level 2 Rail Properties or MBTA Rail Properties.

SECTION 4 MBTA COMMUTER RAIL ELECTION

PAS hereby grants the MBTA the right to conduct Revenue Service on the Level 1 Rail Properties, either in connection with the conversion of Level 1 Rail Properties to Level 2 Rail Properties or in connection with the exercise by the MBTA of any Option to Purchase Level 1 Rail Properties, on and after any applicable Commuter Rail Commencement Date in accordance with the provisions of this Section 2.

4.1 Commuter Rail Election Dates

Prior to the commencement of any Revenue Service on any Level 1 Rail Properties (except those operations permitted pursuant to Section 3 of this Agreement), the MBTA shall provide written notice to PAS (any such notice, a "Commuter Rail Election Notice") advising PAS of the date on which the MBTA intends to commence Revenue Service on a particular portion(s) of the Level 1 Rail Properties (each such date, a "Commuter Rail Commencement Date"), which date may be adjusted pursuant to Section 4.4 herein. Within thirty (30) days after the Commuter Rail Election Notice has been received by PAS for those Level 1 Rail Properties identified in such notice, the MBTA shall provide PAS with the proposed scope of a study specifying the planned level of and proposed schedule for the Revenue Service. The study shall be designed to determine what track, signal and capacity enhancements would be reasonably required on the applicable portion of the Level 1 Rail Properties to allow the provision of such

Revenue Service without unreasonable interference with PAS's Freight Rail Service (the "Capacity Study"). PAS shall provide the MBTA with comments on the proposed scope of the Capacity Study, and the MBTA shall consider such comments in finalizing the scope. The MBTA will conduct the Capacity Study, in cooperation and consultation with PAS, and shall construct the track, signal and capacity improvements, modifications and rehabilitations reasonably required by the Capacity Study for the level and proposed schedule of Revenue Service planned by the MBTA, as set forth in Section 4.2 ("Infrastructure Improvements"). The improvements may include the construction of passenger stations along the Level 1 Rail Properties on property to be acquired by the MBTA. MBTA Commuter Rail Services may not increase or be modified from the level or schedules provided for in the Capacity Study after the implementation of the initial set of Infrastructure Improvements, except as set forth in Sections 5.1 or 7.4(b), as applicable, unless the MBTA conducts or funds an additional capacity study to determine whether any additional Infrastructure Improvements will be required to accommodate the additional passenger service (the "Supplemental Infrastructure Improvements"), the MBTA agrees to fund such Supplemental Infrastructure Improvements, and such Supplemental Infrastructure Improvements are constructed and operational.

4.2 Infrastructure Improvements

The MBTA at its sole cost and expense shall engage PAS to perform the Infrastructure and Supplemental Infrastructure Improvement Activities as Force Account Work. The MBTA shall make available to PAS all plans and specifications for any Infrastructure Improvements or Supplemental Infrastructure Improvements, for review and approval by PAS. If PAS reasonably determines that the Commuter Rail Services or any aspect of the Infrastructure Improvements shall unreasonably interfere with PAS Freight Rail Services, then the MBTA and PAS shall agree on modifications to the plans and specifications for the Infrastructure Improvement Activities which will alleviate such unreasonable interference. In the event that the Infrastructure Improvements proposed by the MBTA do not unreasonably interfere with PAS's Freight Rail Service, but PAS fails to perform the Infrastructure Improvement Activities as Force Account Work as required by Section 8 and such failure continues for ten (10) business days after receipt of written notice from the MBTA of such failure, the MBTA may, at its option, either with or without the consent or request of PAS, perform such work itself or may engage a third party to perform such work. PAS shall perform maintenance services required for Infrastructure Improvements constructed pursuant to this Section 4, and such services shall be considered Enhanced Maintenance Services, the costs of which maintenance shall be the responsibility of the MBTA.

4.3 Service Suspensions

Notwithstanding any provision of this Agreement to the contrary, PAS acknowledges that one or more Service Suspensions may be necessary in order to construct Infrastructure Improvements. The timing and duration of such Service Suspensions shall be subject to PAS's reasonable discretion so as not to materially interfere with PAS Freight Rail Service

4.4 Adjustment of Commuter Rail Commencement Date; Conversion of Level 1 Rail Properties to Level 2 Rail Properties

In the event that any Infrastructure Improvements described in any Commuter Rail Election Notice shall not have been completed by the Commuter Rail Commencement Date set forth in such Commuter Rail Election Notice, such Commuter Rail Commencement Date shall be deemed to be the date that such Infrastructure Improvements are actually completed and no Commuter Rail Services shall be initiated prior to such later date. On and after any Commuter Rail Commencement Date (as the same may be adjusted in accordance with the immediately preceding sentence), the portion of the Level 1 Rail Properties described in the Commuter Rail Election Notice shall cease to be Level 1 Rail Properties and shall thereafter be deemed to be Level 2 Rail Properties for all purposes hereunder, and the Parties shall amend Exhibit A hereto to reflect such change.

SECTION 5 LEVEL 2 RAIL PROPERTIES

5.1 Dispatching on Level 2 Rail Properties.

PAS shall provide dispatching services for the Level 2 Rail Properties, and shall establish a dispatching protocol for the Level 2 Rail Properties that (i) will minimize negative impacts on each Party's trains, and (ii) will allow reasonable flexibility within the structure described herein in order to accommodate the movement of each other's trains, *provided however*, that the MBTA shall have the right to schedule passenger trains in consultation with PAS and that in all circumstances a scheduled commuter rail train shall hold a priority for as long as it maintains its schedule within a period that is not more than ten minutes earlier or later than its scheduled time. The parties acknowledge that the scheduling of passenger trains on the Level 2 Rail Properties will likely be extensions of the schedules for existing MBTA Revenue Service on lines connecting to such Level 2 Rail Properties. Changes to previously approved schedules of up to ten (10) minutes shall be made by the MBTA in coordination with PAS, shall seek to minimize negative impacts on the PAS Freight Rail Service, and shall be subject to PAS's approval, not be unreasonably withheld, conditioned, or delayed. The MBTA may propose changes to previously approved schedules of more than ten (10) minutes earlier or later than scheduled times, in which case PAS may require the MBTA to conduct an updated Capacity Study pursuant to Section 4.1 and implement such changes in accordance with Section 4.1.

5.2 Control and Management.

Except as otherwise provided herein, PAS retains the exclusive right to exercise and to perform, or to delegate or subcontract to another entity, the performance of the management, regulatory and operational control of any and all rail service over Level 2 Rail Properties including, without limitation, dispatching and control of all trains. In the exercise of its control over the Level 2 Rail Properties, PAS will give priority to MBTA commuter trains over all other train scheduling, dispatching and control, including without limitation PAS trains and will make all reasonable efforts to expedite the movement of MBTA trains, including expediting repairs to lines, removing obstructions, and scheduling regular maintenance and repair programs at hours which will not unreasonably interfere with such movement.

5.3 Maintenance of Level 2 Rail Properties

(a) PAS shall provide all Maintenance Services for the Level 2 Rail Properties. Unless otherwise stated explicitly in this Agreement, PAS shall be responsible for the costs of materials, equipment, management, and other expenses required for its performance of the Maintenance Services under this Section. PAS shall provide the MBTA with at least thirty (30) days prior written notice of any proposed changes to the Maintenance Standard that are likely to affect the MBTA's operations. If the MBTA requests that PAS maintain any portion of the Level 2 Rail Properties to an Enhanced Maintenance Standard, PAS shall perform the associated Enhanced Maintenance Services, and the MBTA shall be responsible for any incremental Direct Costs of the Enhanced Maintenance Services, provided, however, that PAS may require, or the MBTA may elect, that the MBTA procure and provide materials for use in the Enhanced Maintenance Services, at the MBTA's sole cost and expense. In all circumstances where a track outage is required for the performance of maintenance that is likely to affect the MBTA's operations (except emergency maintenance services), such maintenance work shall be scheduled and the PAS shall provide written notice to the MBTA of such maintenance work at least fifteen (15) days in advance of any such track outage, if practical.

(b) In the event that PAS fails to provide Maintenance Services or Enhanced Maintenance Services pursuant to this Section 5 and such failure will have a material adverse effect on the MBTA's operations on the Level 2 Rail Properties, the MBTA may after notice to PAS and PAS's subsequent failure to provide Maintenance Services or Enhanced Maintenance Services within seven (7) days, at its option, either with or without the consent or request of PAS, perform such services, and, with respect to Maintenance Services only, PAS shall reimburse the MBTA for Direct Costs incurred in rendering such services. The MBTA's decision to provide Maintenance Services or Enhanced Maintenance Services pursuant to this Section shall not be considered a waiver of any other remedies available to the MBTA under this Agreement including, without limitation, the remedies set forth in Section 10 below. Notwithstanding anything herein to the contrary, the MBTA shall have the right to secure such approvals of regulatory or governmental bodies for such work on the Level 2 Rail Properties as may be necessary, including, without limitation, the FRA and Massachusetts Department of Public Utilities and no approval of PAS shall be required for the performance of any work on the Level 2 Rail Properties, except as may be expressly provided herein.

(c) PAS shall provide and furnish all labor, administrative, professional, and supervisory personnel necessary for its performance of the Maintenance Services or Enhanced Maintenance Services under this Section. All PAS personnel or PAS contractor personnel involved in any aspect of providing services under this Agreement shall be subject to the direction, supervision, and control of PAS, and not the MBTA. PAS shall be solely responsible for all labor relations issues relating to PAS Employees that arise in connection with the performance of services under this Agreement.

(d) If the MBTA desires construction, alterations or improvements on the Level 2 Rail Properties, it shall submit a request to PAS in writing which specifies the work which the MBTA requests PAS to perform on the MBTA's account. Provided that such work would not unreasonably interfere with PAS Freight Rail Services, PAS shall perform such work at the MBTA's sole cost and expense pursuant to Section 9.2. All such modifications and improvements shall be considered Infrastructure Improvements, the cost of maintenance and renewal of which shall be borne solely by MBTA.

(e) In connection with any material change in the level of PAS Freight Rail Service from the service levels indicated by the FRA Classifications shown on the attached Exhibit D, either Party may request that the Parties meet to consider an adjustment to the Maintenance Standard and Enhanced Maintenance Standard, and any corresponding adjustment of the costs allocable to each Party for the Enhanced Maintenance Services. Any such adjustments shall be implemented if the Party requesting the adjustment demonstrates, with the cooperation of the other Party, that the Maintenance Standard then in effect no longer corresponds to the standard required for the operation of then-current PAS Freight Rail Service.

(f) The provisions of this Section do not apply to or otherwise affect the Level 1 Rail Properties or the MBTA Rail Properties.

5.4 Reduction in MBTA Use of Level 2 Rail Properties

In the event that the MBTA shall cease to have current use, or, in the MBTA's sole and absolute determination, reasonably foreseeable future use, of all or any portion of the Level 2 Rail Properties for MBTA Commuter Rail Services, or, if in the MBTA's sole and absolute discretion it determines that it no longer wishes to continue the use of all or any such portion of the Level 2 Rail Properties for Revenue Service, the MBTA shall have the option of terminating its use of all or such portion of the Level 2 Rail Properties for Revenue Service by written notice to PAS (an "MBTA Termination Notice"). Following any such termination, such portions of the Level 2 Rail Properties on which the MBTA has terminated Revenue Service shall be deemed to be Level 1 Rail Properties for all purposes under this Agreement. In the event that a portion of the Level 2 Rail Properties shall be deemed to be Level 1 Rail Properties, the provisions of Section 4 herein shall govern any decision in the future to reconvert the Level 1 Rail Properties to Level 2 Rail Properties, provided however that due consideration shall be given to any Infrastructure Improvements or Supplemental Infrastructure Improvements completed as part of the initial conversion of the Level 1 Rail Properties to Level 2 Rail Properties. Any MBTA Termination Notice shall contain a revised Exhibit A reflecting the change in designation.

SECTION 6 MBTA OPTION TO PURCHASE

6.1 Grant of Option to Purchase

PAS hereby grants to the MBTA an option (the "Option to Purchase") to purchase, subject to, and conditioned upon the receipt of, all applicable regulatory approvals, all or any portion of the PAS Freight Rail Properties upon the terms and conditions set forth in this Section

and subject to PAS retaining a Retained Easement upon any such portion of the PAS Rail Properties acquired by the MBTA pursuant to the Option to Purchase. Any conditions placed upon the receipt of any applicable regulatory approvals must be acceptable to PAS in its reasonable discretion. The Option to Purchase shall be a continuing right during the initial 30-year term of this Agreement, and the exercise of the Option to Purchase with respect to any portion of the PAS Rail Properties shall not derogate from the MBTA's right to exercise the Option to Purchase with respect to any other portion of the PAS Rail Properties, nor shall the failure to consummate the purchase of a portion of the PAS Rail Properties following the exercise of the Option to Purchase with respect to such portion preclude the MBTA from exercising the Option to Purchase with respect to the same portion of the PAS Rail Properties at a later date. PAS may, at any time prior to the MBTA's issuance of an Exercise Notice (defined below), sell, lease, grant an easement, or otherwise convey any interest in the PAS Freight Rail Properties to a third party (a "Permitted Transfer"), provided however that (1) any such Permitted Transfer shall be subject to the rights of the Commonwealth pursuant to Mass. Gen. Laws Chapter 161C, Section 7, Mass. Gen. Laws Chapter 40, Section 54A, if applicable and any other applicable laws and regulations; (2) any such Permitted Transfer shall not interfere with the MBTA's rights under this Agreement; and (3) the Option to Purchase shall run with the land.

6.2 Exercise of the Option to Purchase

(a) During the initial term of this Agreement, the Option to Purchase shall be exercisable by the MBTA by written notice (the "Exercise Notice") given by the MBTA at any time during the initial term of this Agreement. The Exercise Notice shall set forth the portion of the PAS Rail Properties the MBTA intends to purchase (the "Option Property"), include the MBTA's estimate of the Fair Market Value for such portion of the PAS Rail Properties (the "MBTA's Estimated Fair Market Value") and establish the closing date under the P&S (as defined below), which shall not be less than one hundred and twenty (120) days after the date of the Exercise Notice and shall not be more than ninety (90) days after final determination of the Purchase Price as described below. For the purposes of this Section 6, the fair market value of all property subject to this section shall not include any amounts for operating rights on such property, but shall be limited to the value of the land and appurtenant property to be conveyed, with all appropriate physical enhancements normally applied to a contiguous right of way, with such value further adjusted to account for the change in trackage rights liability as further described in Section 11 (such change being from such liability allocation as described in Section 11 for Level 1 and Level 2 properties to the different liability allocation set forth pursuant to the 1976 Deed).

(b) If the MBTA exercises the Option to Purchase with respect to all or any portion of the PAS Rail Properties, the purchase price to be paid for such portion of the PAS Rail Properties shall be the fair market value thereof, determined as follows (the "Purchase Price"):

(1) Within ninety (90) days after receipt of any Exercise Notice, PAS shall either (i) give the MBTA written notice that PAS accepts the MBTA's Estimated Fair Market Value ("Binding Price Notice") or (ii) if PAS disagrees with the MBTA's Estimated Fair Market Value, provide the MBTA with written notice of disagreement (the "Price Rejection Notice"). If PAS fails to provide the MBTA with either a Binding Price Notice or a Price Rejection Notice within such ninety-(90)-day period, PAS shall be deemed to have provided a Binding Price Notice. If PAS provides or is deemed to have provided the MBTA with a Binding Price Notice, the MBTA's Estimated Fair Market Value shall be the Purchase Price under the applicable P&S. If PAS provides the MBTA with a Price Rejection Notice, the MBTA and PAS shall work together in good faith to agree upon the fair market value for the property described in the Exercise Notice. Upon any such agreement, the agreed upon fair market value shall be the Purchase Price under the P&S. If the MBTA and PAS fail to agree upon a fair market value within sixty (60) days after the date PAS provides the MBTA with the Price Rejection Notice, then the fair market value shall be determined in accordance with the arbitration procedures described in Section 6.2(c) below.

(c) Arbitration Procedure.

(1) If the MBTA and PAS have failed to reach agreement as to the Purchase Price within sixty (60) days after the date of a Price Rejection Notice, then, within seven (7) days after the expiration of such sixty (60)-day period, the MBTA and PAS shall each simultaneously submit to the other, in a sealed envelope, its good faith estimate of the fair market value of the Option Property (collectively referred to as the "Estimates"). If the higher of such Estimates is not more than one hundred five percent (105%) of the lower of such Estimates, then the Purchase Price shall be the average of the two Estimates. If the Purchase Price is not resolved by the exchange of Estimates, then, within seven (7) days after the exchange of Estimates, the MBTA and PAS shall each select an appraiser to determine which of the two Estimates most closely reflects the Fair Market Value for the Option Property. Each appraiser so selected shall be certified as an MAI appraiser or as an ASA appraiser and shall have had at least five (5) years experience within the previous ten (10) years as a real estate appraiser working in the area of the Option Property. For purposes hereof, an "MAI" appraiser means an individual who holds an MAI designation conferred by, and is an independent member of, the American Institute of Real Estate Appraisers (or its successor organization, or in the event there is no successor organization, the organization and designation most similar), and an "ASA" appraiser means an individual who holds the Senior Member designation conferred

by, and is an independent member of, the American Society of Appraisers (or its successor organization, or, in the event there is no successor organization, the organization and designation most similar).

(2) Upon selection, the MBTA's and PAS's appraisers shall work together in good faith to agree upon which of the two Estimates most closely reflects the fair market value for the Option Property. The Estimate chosen by such appraisers shall be binding on both the MBTA and PAS as the Purchase Price for the Option Property. If either the MBTA or PAS fails to appoint an appraiser within the seven-(7)-day period referred to above, the appraiser appointed by the other party shall be the sole appraiser for the purposes hereof. If the two appraisers cannot agree upon which of the two Estimates most closely reflects the fair market value of the Option Property within twenty (20) days after their appointment, then, within ten (10) days after the expiration of such twenty-(20)-day period, the two appraisers shall select a third appraiser meeting the aforementioned criteria. Once the third appraiser (i.e., arbitrator) has been selected as provided for above, then, as soon thereafter as practicable but in any case within fourteen (14) days, the arbitrator shall make his determination of which of the two Estimates most closely reflects the fair market value of the Option Property and such Estimate shall be binding on both the MBTA and PAS as the Purchase Price under the applicable P&S. If the arbitrator believes that expert advice would materially assist him, he may retain one or more qualified persons to provide such expert advice. The Parties shall share equally in the costs of the arbitrator and of any experts retained by the arbitrator. Any fees of any appraiser, counsel or experts engaged directly by the MBTA or PAS, however, shall be borne by the party retaining such appraiser, counsel or expert.

(3) If the Purchase Price has not been determined by the date which is thirty (30) days prior to the closing date set forth in the Exercise Notice, the closing date under the P&S shall be the date which is thirty (30) days after the determination of the Purchase Price.

(d) If the MBTA exercises the Option to Purchase by giving notice as provided above and accepts in writing the Purchase Price determined as set forth above, then the giving of such notice of exercise by the MBTA and its written acceptance of the Purchase Price shall be deemed, without the execution of any other instrument or the taking of any other action, to create a binding contract between PAS and the MBTA for the purchase and sale of the Option Property set forth in the applicable exercise notice upon the substantive terms and conditions set forth in the Purchase and Sale Agreement attached hereto as **Exhibit B** (the "**P&S**") and this Section. In the event that the MBTA does not accept the Purchase Price as determined above, the MBTA may, by written

notice to PAS, decline to execute the P&S, in which case the MBTA will reimburse PAS for PAS's share of the costs of the appraisal and all other reasonable costs associated with the process of preparing for the sale pursuant to this Section 6. In the event of such non-acceptance of the Purchase Price, the Option to Purchase shall remain in effect for all properties subject to this Agreement, and may be exercised again by the MBTA during the initial term.

SECTION 7 MBTA RAIL PROPERTIES

7.1 Conversion to MBTA Rail Properties

In conjunction with the exercise of the Option to Purchase, the MBTA and PAS shall comply with the obligations to conduct a Capacity Study and implement Infrastructure Improvements as set forth in Sections 4.1 and 4.2 above. Following the acquisition by the MBTA of all or any portion of the PAS Freight Rail Properties, such properties shall, for the purposes of this Agreement, cease to be either Level 1 Rail Properties or Level 2 Rail Properties (or, in the case of the Worcester Main Line property described on Exhibit A, a PAS Freight Rail Property) and shall thereafter be deemed to be MBTA Rail Properties for all purposes hereunder, and the Parties shall execute an amendment to this Agreement which contains a revised Exhibit A reflecting the change in designation.

7.2 Operations Governed by this Agreement and MBTA Rail Properties Deed

The MBTA Rail Properties Deed (including the Retained Easement) transferring MBTA Rail Properties from PAS to the MBTA shall contain provisions which continue in full force and effect the rights and obligations set forth in this Agreement. To the extent that the 1976 Deed contains rights and obligations other than as set forth herein, the Deed shall contain terms and conditions consistent with those in the 1976 Deed, including the conditions applicable to alteration of the MBTA Rail Properties by the MBTA and PAS (other than the construction of Infrastructure Improvements or Supplemental Infrastructure Improvements pursuant to Section 4.2) shall be consistent with Section E(1) of the 1976 Deed.

7.3 Access to MBTA Rail Properties.

Consistent with the Retained Easement and subject to this Agreement, PAS shall have the right to use the MBTA Rail Properties to provide PAS Freight Rail Service. Notwithstanding any provision of this Agreement to the contrary, the Parties agree that the MBTA shall have the right to use the PAS Rail Properties to transport baggage, and other matter and material as is or may be on occasion carried by the MBTA, including equipment or other material for use by or for the MBTA or its non-freight related agents or contractors.

7.4 Limitations on Access Rights.

The rights of PAS to use the MBTA Rail Properties, as described above, shall be limited as follows:

(a) The MBTA Rail Properties shall be jointly used by PAS for PAS Freight Rail Service and related uses and by the MBTA for the MBTA Commuter Rail Services and related uses, in accordance with the terms set forth herein and in the Retained Easement. Nothing in this Agreement shall derogate from the MBTA's right to utilize, directly or through its Operating Contractor, or to permit other passenger carrier(s) to utilize any portion of the MBTA Rail Properties for the provision of the MBTA Commuter Rail Services, including without limitation, intercity service as well as commuter service; provided, however, that use by other passenger carrier(s) of the MBTA Rail Properties may require an additional Capacity Study and the construction of additional Infrastructure Improvements or Supplemental Infrastructure Improvements pursuant to Section 4.1 and Section 4.2 above.

(b) PAS, or, in the event that the MBTA assumes dispatching responsibilities pursuant to Section 7.5 below, the MBTA, shall establish a dispatching protocol for the MBTA Rail Properties that (i) will minimize negative impacts on each Party's trains, and (ii) will allow reasonable flexibility within the structure described herein in order to accommodate the movement of each other's trains, *provided however*, that the MBTA shall have the right to schedule commuter rail trains in consultation with PAS which are consistent with the schedules planned for pursuant to the Capacity Study provided for in Section 4.1 above and that in all circumstances a scheduled commuter rail train shall hold a priority for as long as it maintains its schedule within a period that is not more than no longer than ten minutes earlier later than its scheduled time. The Parties acknowledge that the scheduling of passenger trains on the MBTA Rail Properties will likely be extensions of the schedules for existing MBTA passenger service on lines connecting to such MBTA Rail Properties. Changes to previously approved schedules of up to ten (10) minutes shall be made by the MBTA in coordination with PAS, shall seek to minimize negative impacts on the PAS Freight Rail Service, and shall be subject to PAS's approval, not be unreasonably withheld, conditioned, or delayed. The MBTA may propose changes to previously approved schedules of more than ten (10) minutes earlier or later than scheduled times, in which case PAS may require the MBTA to conduct an updated Capacity Study pursuant to Section 4.1 and implement such changes in accordance with Section 4.1.

7.5 Dispatching, Control and Management.

(a) PAS shall continue to provide dispatching of all operations over the MBTA Rail Properties at its sole cost and expense after the conversion of any PAS Freight Rail Properties to MBTA Rail Properties, provided, however, that the MBTA may at any time assume such dispatching responsibilities if it determines, in its reasonable discretion, that PAS has, on fifteen (15) or more days during any thirty (30) day period (excepting any period during which construction of any Infrastructure

Improvements, Supplemental Infrastructure Improvements, or Force Account projects, or the occurrence of Force Majeure events, materially impacted service), performed dispatching in a manner materially contrary to the overall dispatching protocols described in Section 7.4. However, if PAS demonstrates to the MBTA that, in the reasonable discretion of the MBTA, PAS has rectified any conditions that caused PAS's failure to perform dispatching in accordance with Section 7.4, the MBTA shall transfer dispatching responsibility back to PAS.

(b) In the event that the MBTA assumes control of dispatching services, in order to allow for the transfer of dispatching control to MBTA or its Operating Contractor on the MBTA Rail Properties PAS will provide full cooperation and access in locating and activating switching (transfer) equipment at necessary sites, on either MBTA or PAS property, in order to establish the capability or activation of train control machines controlling the MBTA Rail Properties at the MBTA dispatching center and deactivation of the train control machines at the PAS dispatching center. PAS shall provide this cooperation within 30 days of direction from the MBTA. Such work shall be performed as Force Account Work under this Agreement or by the MBTA or third parties engaged by the MBTA, at its sole discretion.

(c) Upon completion of all installation and activation of switching equipment to enable dispatching from the designated MBTA dispatching center, the MBTA shall have the exclusive right to exercise and to perform, or to delegate or subcontract to another entity, the performance of the management, regulatory and operational control of any and all rail service over MBTA Rail Properties including, without limitation, dispatching and control of all trains. In the exercise of its control over the MBTA Rail Properties, the MBTA will give priority to the MBTA passenger trains over all other train scheduling, dispatching and control, including without limitation freight service. The costs of the dispatching by the MBTA or its Operating Contractor shall be the responsibility of the MBTA.

(d) Notwithstanding anything herein to the contrary, the MBTA may, in its sole discretion, decline to assume dispatching control of the MBTA Rail Properties, in which event PAS shall dispatch the MBTA Rail Properties at PAS's sole cost and expense, and subject to the scheduling provisions of Section 7.3(b) and Section 7.4(b).

7.6 Maintenance

(a) The MBTA shall provide all Maintenance Services for the MBTA Rail Properties. All Maintenance Services shall be undertaken in a manner so as to minimize interference with train operations. In all circumstances where a track outage is required for the performance of maintenance (except emergency maintenance services), such maintenance work shall be scheduled and the MBTA shall provide written notice to PAS of such maintenance work at least fifteen (15) days in advance of any such track outage.

(b) If PAS requests that the MBTA maintain a portion of the MBTA Rail Properties to an Enhanced Maintenance Standard, the MBTA shall perform the associated Enhanced Maintenance Services, and PAS shall be responsible for any incremental Direct Costs of the Enhanced Maintenance Services. For avoidance of doubt, the costs of maintenance of any Infrastructure Improvements or Supplemental Infrastructure Improvements constructed to accommodate MBTA Revenue Service shall be performed at the MBTA's sole costs and expense as set forth in Section 4.2. The MBTA shall provide PAS with at least thirty (30) days prior written notice of any planned changes to the Maintenance Standard that are likely to affect PAS's operations.

(c) MBTA shall provide and furnish all labor, administrative, professional, and supervisory personnel necessary for its performance of the Maintenance Services under this Section. All the MBTA personnel or the MBTA contractor personnel involved in any aspect of providing services under this Agreement shall be subject to the direction, supervision, and control of the MBTA, and not PAS. The MBTA shall be solely responsible for all labor relations issues relating to the MBTA Employees that arise in connection with the performance of services under this Agreement.

(d) Unless otherwise stated explicitly in this Agreement, the MBTA shall be responsible for the costs of materials, equipment, management, and other expenses required for its performance of the Maintenance Services under this Section. If PAS desires construction, alterations or improvements on the MBTA Rail Properties, such improvements shall be considered Infrastructure Improvements, and PAS shall submit a request to the MBTA in writing which specifies the work which PAS requests the MBTA to perform on PAS's account. The MBTA shall perform such work at PAS's sole cost and expense pursuant to Section 9.2 unless the MBTA determines in its reasonable discretion that: (i) such work will have an adverse effect on MBTA Passenger Rail Services and (ii) PAS fails to satisfactorily mitigate such adverse effect. The MBTA shall perform Maintenance Services required for Infrastructure Improvements constructed pursuant to this Section 7.6(d), and such services shall be considered Enhanced Maintenance Services, the costs of which maintenance shall be the responsibility of PAS.

(e) In the event that the MBTA fails to provide Maintenance Services or Enhanced Maintenance Services pursuant to this Section and such failure will have a material adverse effect on PAS's Freight Rail Services on the MBTA Rail Properties, PAS may after notice to the MBTA and the MBTA's failure to perform the Maintenance Services or Enhanced Maintenance Services within seven (7) days, at its option, either with or without the consent or request of the MBTA, maintain the MBTA Rail Properties and, with respect to Maintenance Services only, the MBTA shall reimburse PAS for Direct Costs incurred in rendering such services. PAS's decision to provide Maintenance Services or Enhanced Maintenance Services pursuant to this Section shall not be considered a waiver of any other remedies available to PAS under this Agreement including, without limitation, the remedies set forth in Section 14. Notwithstanding anything herein to the contrary, PAS shall have the right to secure such approvals of regulatory or governmental bodies for such work on the MBTA Rail Properties as may be necessary, including, without limitation, the FRA and Massachusetts Department of

Public Utilities and no approval of MBTA shall be required for the performance of any work on the MBTA Rail Properties, except as may be expressly provided herein.

(f) In connection with any material change in the level of MBTA Commuter Rail Service from the service levels studied in the Capacity Study, either Party may request that the Parties meet to consider an adjustment to the Maintenance Standard and Enhanced Maintenance Standard, and any corresponding adjustment of the costs allocable to each Party for the Enhanced Maintenance Services. Any such adjustments shall be implemented if the Party requesting the adjustment demonstrates, with the cooperation of the other Party, that the Maintenance Standard then in effect no longer corresponds to the standard required for the operation of then-current MBTA Commuter Rail Service.

(g) The provisions of this Section do not apply to or otherwise affect the PAS Freight Rail Properties.

SECTION 8 FORCE ACCOUNT WORK

8.1 General Authority.

(a) The MBTA may at its discretion request PAS to perform Force Account Work to implement any Infrastructure Improvement Activities or other to construct or install other additions and betterments on the Level 1 Rail Properties or the Level 2 Rail Properties pursuant to this Agreement, and PAS may at its discretion request the MBTA to perform such Force Account Work on the MBTA Rail Properties. For the purposes of this Section 8, "Controlling Party" shall mean PAS with respect to the Level 1 Rail Properties and the Level 2 Rail Properties, and the MBTA with respect to the MBTA Rail Properties, and "Requesting Party" shall mean the MBTA with respect to the Level 1 Rail Properties and the Level 2 Rail Properties, and PAS with respect to the MBTA Rail Properties. So long as the Parties agree on the terms of a PI (defined below), the Controlling Party shall perform Force Account Work for the Requesting Party at the Requesting Party's sole cost and expense

(b) All Force Account Work shall be performed in full and strict compliance with all applicable terms and conditions of this Agreement.

(c) The Controlling Party shall perform Force Account Work using its own personnel and others as may be necessary, without any impact to any Controlling Party obligation to provide other services under this Agreement or freight or commuter rail service in general over the balance of the Controlling Party's system. The Controlling Party shall use its own personnel performing other services pursuant to this Agreement in the execution of Force Account Work to the extent that doing so does not interfere with the performance of such other services.

(d) The Controlling Party shall assign its personnel to perform Force Account Work, to the extent that such assignment does not adversely affect the provision of other services required under this Agreement or freight or commuter rail service in general over the balance of

the Controlling Party's system. If the Controlling Party cannot assign its personnel to the performance of Force Account Work without adversely affecting the provision of other services due under this Agreement or freight or commuter rail service in general over the balance of the Controlling Party's system, the Controlling Party may assign or hire other personnel to the performance of Force Account Work. Compensation for use of Controlling Party personnel for Force Account work shall conform to the provisions of Exhibit C, Direct Costs Billable for Force Account Work.

8.2 Request For Force Account Work.

The Requesting Party shall initiate Force Account Work Projects by preparing and delivering to the Controlling Party for review and approval a Project Initiation ("PI") and/or Change Order ("CO") form. The Requesting Party's request shall include for review and approval by the Controlling Party a description of the work to be performed and any plans, specifications and requirements that the Requesting Party determines should govern the Force Account Work Project. The Controlling Party shall, within sixty (60) days of receipt provide a response to the PI or CO request which shall include a comprehensive cost proposal for the Force Account Work Project including staffing plans, resource requirements, and itemized, auditable costs in a format approved by the Requesting Party and consistent with Exhibit C, Direct Costs Billable for Force Account Work, as well as a schedule that includes important milestones for completing the Force Account Work Project. The Parties shall work together in good faith to agree upon a final cost proposal for a project. The Controlling Party shall make every effort to comply with the cost proposals and schedules, and shall notify the Requesting Party immediately after the Controlling Party becomes aware that a deviation from such proposal or schedule is likely.

8.3 Emergency Force Account Work Projects

In the event of an emergency or when, in the reasonable discretion of the Requesting Party, expeditious response is required, the Requesting Party may orally direct the Controlling Party to undertake necessary Force Account Work, and the Controlling Party shall perform such work in the most expeditious manner possible. The Requesting Party shall deliver to the Controlling Party written confirmation of the Force Account Work request within forty-eight (48) hours of issuing such oral directive and issue a PI or CO for the Force Account Work as soon as reasonably practicable thereafter. The Controlling Party shall be entitled to payment for such emergency force account work performed upon oral direction consistent with Section 8.7 of this Agreement.

8.4 Initiation of Force Account Work Projects. Completion of the PI form and signature by the Controlling Party's and the Requesting Party's authorized representatives shall constitute an agreement to perform the requested Force Account Work. The cost estimate detailed in the PI shall constitute the amount Contractor is authorized to spend. This amount may only be increased through execution of a CO. The Controlling Party shall perform the Force Account Work according to the schedule detailed in the PI, unless the Parties execute a CO revising such schedule.

8.5 Changes to Force Account Work Projects. Changes to a PI for Force Account Work shall be initiated by execution of a CO form. Each proposed CO for a Force Account Work Project shall cite the number of the PI that the CO revises. Completion of the CO form and signature by an authorized representative of the Requesting Party shall constitute agreement regarding the change. No changes shall be made on the basis of oral requests, except in the event of an emergency situation as set forth in Section 8.2(b) above.

8.6 80% Expenditure Notice. Unless otherwise agreed to by the parties, the Controlling Party shall promptly notify the Requesting Party in writing when the Controlling Party has spent or obligated eighty percent (80%) of the funds authorized for a Force Account Work Project. Such notice shall include: a description of the incomplete work and the estimated cost of completing such work; a schedule update; and notice of any unsafe condition or impact on revenue service that may arise if work on the Force Account Work Project ceases before completion. If the Requesting Party determines that the Force Account Work Project may exceed its approved cost or continue beyond its approved schedule, the Requesting party may issue a CO authorizing the Controlling Party to continue the Force Account Work Project based on the new estimate or schedule, or may direct the Controlling Party to terminate the Force Account Work Project as promptly and inexpensively as feasible. The Controlling Party shall have no obligation to perform work on a Force Account Work Project after the cost limit specified in a PI (and any COs that modify such PI) has been reached, with the exception of work that is, in the determination of the Requesting Party, necessary to prevent or remedy any unsafe condition or to prevent disruption of revenue service. The parties agree that for projects where the work is expected to be completed in no more than one month, the 80% notice requirement shall be waived.

8.7 Force Account Work Project Costs.

(a) The Controlling Party shall document all Direct Costs incurred in the performance of Force Account Work, separate from the records Contractor keeps for the costs of providing Agreement Services other than Force Account Work. All invoices for Force Account Work Projects submitted by the Controlling Party to the Requesting Party shall include the number of staff-hours and cost of labor expended; the costs of associated employee benefits; quantities and costs of materials consumed; the cost of subcontracted services; equipment usage and associated costs; and any other allowable Direct Costs for performing the Force Account Work Project. The Controlling Party's cost proposals and invoices shall indicate the number of hours worked by its personnel on each Force Account Work Project, and shall include a calculation of the Controlling Party's total charges for such hours during the relevant year. Within the cost limit specified in the PI, the Requesting Party shall compensate the Controlling Party for all work actually performed pursuant to the PI, according to the provisions of Section 8 and Exhibit C, Direct Costs Billable for Force Account Work. On the first day of each month during the performance of each project, the Controlling Party shall submit an estimated invoice to the Requesting Party for work scheduled to be performed in the subsequent month. Subject to inspection and final audit as provided in Section 8.9, the Requesting

Party shall submit payment for such invoice to the Controlling Party within fifteen (15) days of receipt, and any discrepancies shall be reconciled during the audit process.

(b) In the event that PAS is the Controlling Party, PAS may require, or the MBTA may elect, that the MBTA and/or the Requesting Party acquire all materials to be utilized on a project from vendors mutually agreed upon and at no cost to PAS.

(c) In the event that PAS is the Controlling Party, PAS shall have the election to retain any materials salvaged for its own account and the cost of such salvage shall not be reimbursed to PAS, nor shall the project receive a credit for the value of such salvage.

8.8 **Project Completion.** Upon completion of a Force Account Work Project, or earlier at the sole discretion of the Requesting Party, the Requesting Party will issue to the Controlling Party a Project Completion Order. The Controlling Party shall submit all final invoices of bills required for compensation under the terms of this Section within ninety (90) days of the date of such order, to be paid by the Requesting Party within fifteen (15) days of receipt. All claims for compensation made after that time shall be waived by the Controlling Party.

8.9 **Audit and Inspection.**

(a) The Controlling Party shall ensure that all Force Account Work conforms to all applicable laws, regulations and standards for the performance of such services, except where different standards are specified in the applicable PI.

(b) The Requesting Party shall have the right to have its representative(s) present at the site of a Force Account Work Project for the purpose of inspecting work performed and to ensure that all work is progressing according to the agreed-upon schedule. Inspections may be unannounced and conducted at any location at any time, provided that all applicable safety rules and practices are followed.

(c) The Requesting Party, in its reasonable discretion, shall approve the quality and completeness of all Force Account Work performed by the Controlling Party. Measurement of the adherence to the requirements of this Agreement and the applicable PI shall be evaluated based on the results of inspections performed at the discretion of the Requesting Party, as described above. Where the Force Account Work does not meet all applicable laws, regulations, or standards, or the applicable PI specifications, the Parties shall meet promptly to determine what additional work should be performed in order to satisfy those requirements. The Controlling Party shall remedy all unsatisfactory Force Account Work at no additional cost to the Requesting Party.

8.10 **Completion of Force Account Work.** Upon termination of this Agreement, the Controlling Party shall continue to perform all incomplete Force Account Work only to the extent necessary to remedy any unsafe condition on the property, except as otherwise agreed to by the Parties.

8.11 **Subcontracts.** The Controlling Party may subcontract Force Account Work if it believes doing so is necessary or efficient, provided, however, that any such subcontracts shall be subject to the reasonable approval of the Requesting Party.

SECTION 9 COMPENSATION

9.1 Consideration for Amendment to 1976 Deed.

The Parties hereby agree that the consideration granted by the MBTA to PAS for the operating rights granted by PAS to the MBTA pursuant to this Agreement includes the amendment of the 1976 Deed or the execution of such other documentation agreed upon by the Parties, to eliminate trackage rights fees or other fees owed pursuant to such deed or any other agreements with respect to the properties governed by the 1976 Deed unless and until this Agreement is terminated by either Party for an Event of Default of the other Party pursuant to Section 13.1. The MBTA will execute such deed amendment or other documentation and cause such amendment or other documentation to be recorded as necessary. With respect to properties purchased by the MBTA pursuant to the Option to Purchase, in the event of the subsequent termination of this Agreement, the MBTA may not implement fees for PAS's use of such MBTA Rail Properties except for Enhanced Maintenance Services or as otherwise set forth in this Agreement.

9.2 Compensation

Each Party shall pay to the other pursuant to the terms of this Agreement the following compensation: (a) any incremental Direct Costs incurred by a Party for Enhanced Maintenance Services as described in this Agreement; and (b) charges for Force Account Work in accordance with Section 8.

9.3 Reimbursement.

In the event that either Party is obligated to reimburse the other for any cost or expense set forth in Section 9.2 above, the Party so obligated shall reimburse the other for the actual, auditable Direct Costs of such work within 15 days of receiving an invoice from the other Party. Amounts not paid by a Party within 15 days of receiving an invoice shall thereafter accrue interest at the Effective Interest Rate.

SECTION 10 TERM

This Agreement shall commence on the Effective Date and shall be for a Term of thirty (30) years, unless terminated earlier pursuant to its terms. Notwithstanding the foregoing, the Parties agree that this Agreement shall remain in full force and effect during any interim period between the end of the Term of this Agreement (or the termination hereof for any reason other than mutual agreement of the Parties) and the execution of a new, revised, or extended trackage rights agreement covering all of the PAS Rail Properties and the MBTA Rail Properties. The Parties acknowledge that expiration or termination of this Agreement will not affect the validity,

continuation or perpetual nature of any Freight Easement or any other easement rights vested in PAS with regard to any MBTA Rail Properties.

SECTION 11 INDEMNIFICATION, LIABILITY AND INVESTIGATION

11.1 General

Liability for personal injury or property damage with respect to the Level 1 Rail Properties or the Level 2 Rail Properties shall be allocated as provided in this Section 11. Liability for personal injury or property damage with respect to the MBTA Rail Properties shall be in accordance with the terms of the 1976 Deed. For the purpose of this Section, no Party shall be deemed to be a "contractor" of any other Party.

11.2 Harm Involving One Party Only

(a) Whenever any loss of, damage to, or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever (including, without limitation, commuter rail passengers or other invitees or trespassers), occurs with the trains, locomotives, rail cars or rail equipment, or employees or agents of, or in the account of, only MBTA being involved, then MBTA shall assume all liability therefor, and bear all cost and expense in connection therewith, including reasonable attorneys' fees.

(b) Whenever any loss of, damage to, or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever (including, without limitation, commuter rail passengers or other invitees or trespassers), occurs with the trains, locomotives, rail cars or rail equipment, or employees or agents of, or in the account of, only PAS being involved, then PAS shall assume all liability therefor, and bear all cost and expense in connection therewith, including reasonable attorneys' fees.

11.3 Harm Caused by Third Party

In the event that harm, damage or injury (including death) is caused solely by an act or omission for which a third party is legally responsible, to the property of, or in the custody of, one of the Parties hereto, or to the employees, passengers or licensees of one of the Parties hereto, that Party shall assume all loss, cost and expense arising therefrom, without contribution from the other party. This Section is not intended to relieve any third party from any liability.

11.4 Harm Involving Both Parties

Whenever any loss of, damage to or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever (including, without limitation, commuter rail passengers or other invitees), occurs with the trains, locomotives, rail cars or rail equipment, or the employees of, or in the account of, both the MBTA and PAS being involved, then:

(a) The MBTA and PAS shall separately assume and bear all liability, cost and expense for loss of, damage to or destruction of trains, locomotives, rail cars (including, without limitation, lading) and rail equipment operated by each of them.

(b) The MBTA and PAS shall separately assume and bear all liability, cost and expense for injury to and death of the officers, agents, contractors and employees employed or engaged by each of them, except as set forth in Section 11.5.

(c) Each Party shall assume and bear all liability, cost, and expense for injury to or death of any person (including, without limitation, trespassers) not referenced in paragraphs (a) or (b) above, and for loss of, damage to and destruction of all other property not referenced in paragraphs (a) or (b) above, caused by the negligence or fault of such Party; provided, however, that the MBTA shall indemnify PAS for claims described in this paragraph (c) arising from the negligence or fault of (but not the gross negligence or willful misconduct of) PAS, to the extent that such claims fall within the MBTA's program of self-insurance described in Section 12.1(b) below and exceed \$3,000,000 in the aggregate and per occurrence.

11.5 Gross Negligence or Willful Misconduct

Whenever any loss of, damage to, or destruction of any property whatsoever, or injury to or death of any person or persons whomsoever, occurs as the result of the gross negligence or willful misconduct of a Party, such Party shall bear all cost and expense in connection therewith, including reasonable attorneys' fees.

11.6 Derailment or Accident

In the event of any derailment or other accident occurring upon the Rail Properties wherein cars, motive power or other equipment of either Party shall fall or encroach upon tracks, bridges or other property being used by the other Party so that said property is blocked or normal operation thereover is impeded, the Party whose property has so fallen or encroached shall expeditiously remove the same and cause all necessary repairs to be made and all tracks and appurtenances restored, at its expense, as may be required for the continued operation of the other Party's railroad activities. Both parties agree to cooperate with each other to expedite the repair and removal of such cars, motive power and other equipment and will make all reasonable efforts to restore the affected line or facility to service.

11.7 Administration of Claims

(a) All claims, injuries, deaths, property damages and losses arising out of or connected with this Agreement shall be investigated, adjusted and defended by the Party bearing the liability, cost and expense therefor under the provisions of this Agreement.

(b) The Party hereto receiving notice of the filing of a claim will promptly notify the other Party of such filing where liability therefor may be joint or that of the other Party hereto. MBTA and PAS will cooperate with each other in all such

investigations, adjustments, and defenses, and MBTA and PAS will provide each other, upon request therefor, a copy of all documents and written communications and produce witnesses, experts or exhibits in their employment or control to assist in the preparation and defense of any such claim and/or litigation with respect thereto.

(c) In the event a claim or suit is asserted against any Party which is another's duty hereunder to investigate, adjust or defend, then, unless otherwise agreed, such other Party shall, upon request, take over the investigation, adjustment and defense of such claim or suit, and the Party relieved of duties in respect of such claim or suit shall cooperate as requested by the Party investigating, adjusting or defending said claim or suit.

(d) All costs and expenses in connection with the investigation, adjustment and defense of any claim or suit under this Agreement shall be included as costs and expenses in applying the liability provisions set forth in this Agreement.

(e) Neither Party shall settle or compromise any claim, demand, suit or cause of action for which the other Party has any liability under this Agreement without the concurrence of such other Party if the consideration for such settlement or compromise exceeds Fifty Thousand and no/100 Dollars (\$50,000.00).

SECTION 12 INSURANCE

12.1 General

This Section 12.1 sets forth the insurance requirements of this Agreement with respect to the Level 1 Rail Properties and the Level 2 Rail Properties, and shall not apply to the MBTA Rail Properties.

(a) The MBTA shall maintain an adequate program of self-insurance which will cover claims and liabilities for loss, damage, injury or death arising out of or connected with this Agreement, including, without limitation, MBTA's contractual liabilities under this Agreement, in the amounts and as provided for in paragraph 12.1(b) hereof. The obtaining of such policy of insurance and the establishment of said self-insurance program, and the maintenance of both in full force and effect by MBTA is a material obligation of this Agreement. In the event that such insurance policy is canceled for any reason, then MBTA shall replace said policy during the notification period with another policy in like amount and coverage protection or, in the case of the self-insurance program, the MBTA shall re-establish such program.

(b) The MBTA, at its sole cost and expense, shall procure and shall maintain during the entire term of this Agreement, liability insurance covering PAS and any operating contractor as an additional named insured as agreed and provided in the terms and conditions of paragraph 12.1(a) hereof. The said liability insurance shall have a limit of not less than \$75,000,000 (or such other amount required by law) combined single limit for personal injury and property damage per occurrence, with deductibles or self-assumed amounts not in excess of \$7,500,000. The said liability coverage within its

terms and conditions shall extend coverage to PAS and any operating contractor for third party personal injury and property damage.

12.2 Period of Coverage

Each Party's responsibility under this Section shall apply to any liability arising on or after the Effective Date of this Agreement, and shall extend beyond the date of expiration or termination of this Agreement with respect to any event occurring or liability arising during the term of this Agreement.

12.3 Certificates

The MBTA shall furnish to PAS Certificates of Insurance (and, upon request, copies of all required insurance policies, including endorsements and declarations) evidencing compliance with the requirements set forth in this Section on the Effective Date of this Agreement, and upon the request of PAS, annually thereafter. The policies shall be endorsed to (1) provide that the policy shall not be cancelled or coverage reduced without sixty (60) days prior notice of cancellation or reduction to the other party, and (2) name PAS and its operating contractor, and their directors, officers, agents and employees, as additional insureds with respect to occurrences relating to the performance of the obligations set forth in this Agreement; (3) provide that such coverage is primary and non-contributory to any insurance or self-insurance procured and maintained by the other party; and (4) provide that to the extent reasonably available, all policies shall not contain any terrorism exclusions, or if they so contain such exclusions, shall contain endorsements providing coverage for acts of terrorism, both foreign and domestic, and both certified and non-certified by the Secretary of the Treasury of the United States. In the event any insurance policy required under this Agreement is cancelled or has its aggregate limits coverage reduced by 25% or more, then the MBTA and/or its Operating Contractor (as the case may be) shall replace such policy or reinstate the aggregate limits during the notification period referred to above with another policy in like amount and coverage protection.

12.4 Self-insurance

The MBTA's self-insurance programs and insurance policies with self-insured retentions must provide at least the same protection from liability and defense of suits as would be afforded by "first dollar" insurance. If the MBTA fails or refuses to pay any losses within a permitted self-insured retention, such failure or refusal shall be an Event of Default under this Agreement.

12.5 PAS Insurance Policies

All insurance policies procured by either party and in force with respect to the properties governed by this Agreement shall contain waivers of subrogation against the other party.

SECTION 13 DEFAULT AND BREACH; TERMINATION

13.1 Default and Breach

(a) Each of the following shall constitute an "Event of Default" under this Agreement:

(1) Any late payment of compensation under Section 6 or other provisions of this Agreement remaining outstanding for more than four (4) months;

(2) The commencement of any proceeding by or against either Party which might result in any modification of the obligations hereunder under any bankruptcy, insolvency or similar law, unless all of the obligations of such party shall have been duly assumed by a trustee or successor to such party within sixty (60) days after such proceeding shall have commenced;

(3) The failure to perform any other covenant or obligation in this Agreement, which failure shall have continued for more than thirty (30) days following the date of written notice thereof.

(b) If an Event of Default shall occur, the Party not in default may exercise any or all of the following remedies:

(1) Terminate this Agreement by and upon sixty (60) days written notice to the defaulting Party; or

(2) Regardless of whether this Agreement is terminated pursuant to Section 10.1(b)(1), pursue any other remedy at law or in equity in any state or federal court in Massachusetts, subject to the provisions of Section 11.

(3) Provided, however, that the MBTA shall have no right to terminate PAS's Retained Easement in the event of default.

(c) The Parties hereto expressly acknowledge that the nature and purpose of this Agreement is such that damages may not be an adequate remedy for any default or breach so occurring, and that equitable relief, such as injunction, mandatory or otherwise, including specific performance, may be necessary in the event a Party fails to cure a breach or default so occurring; in such case, the aggrieved Party may take such legal action as it deems appropriate and may file immediately any and all pleadings in any state or federal court in Massachusetts to secure an injunction of the action or inaction resulting in such default or breach, pending resolution of the matter pursuant to the dispute resolution procedures set forth in Section 11 below; and that, except with respect to the seeking of such equitable relief, any and all controversies arising out of or connected with any default or breach so occurring shall be resolved exclusively by dispute resolution and arbitration in accordance with the provisions of Section 11 hereof.

Nothing contained in this Section shall be construed to limit or restrict the Parties' rights and obligations under Section 10.2.

(d) An Event of Default shall not be waived or satisfied by the failure of a Party to provide written notice thereof to another Party, nor shall a failure to provide written notice be considered a waiver of any other remedies available to any Party under this Agreement or otherwise.

13.2 Termination; Effect of Termination

(a) This Agreement may be terminated as provided in Section 10 or by mutual agreement of the Parties, upon such terms and conditions as the Parties may mutually agree to. Such termination shall be effective in accordance with a written agreement by the Parties. Termination under this section shall not constitute a waiver of the rights of any Party to damages or other remedies related to this Agreement, except to the extent that the mutual agreement terminating this Agreement so specifies. The Parties agree and acknowledge that any termination of this Agreement does not affect the validity, continuation or perpetual nature of any Retained Easement.

(b) This Agreement shall terminate with respect to portions of the MBTA Rail Properties (i) at such time as PAS, in its sole discretion, elects to secure and exercise Appropriate Statutory and Regulatory Authority to abandon and/or discontinue PAS Freight Rail Service on such portions of the MBTA Rail Properties, or (ii) in the event that such authority is not required, at such time as PAS, its successors or assigns, in their sole discretion designates in a written notice of termination of this Agreement with respect to such portions of the MBTA Rail Properties, which written notice shall be given to the MBTA at least six (6) months in advance of the date so designated for termination, *provided however*, such portions of the MBTA Rail Properties shall continue to be subject to applicable law.

(c) Expiration or termination of this Agreement for any reason, in whole or in part, shall not relieve or release any Party from any obligation assumed or from any liability which may have arisen or been incurred by any Party under the terms of this Agreement prior to the expiration or termination hereof. The foregoing provision shall apply whether or not it is so expressly stated elsewhere in this Agreement, including without limitation, where a right of termination, in whole or in part, is expressly accorded either or both of the Parties.

(d) Provided, however, that the MBTA shall have no right to terminate PAS's Retained Easement.

SECTION 14 DISPUTE RESOLUTION

14.1 Settlement of Disputes.

Both Parties to this Agreement shall make every reasonable effort to settle any dispute concerning the interpretation, application or enforcement of this Agreement by prompt and diligent discussions and negotiations.

14.2 Informal Consideration by the Parties.

Any dispute that cannot be resolved pursuant to Section 14.1 above within thirty (30) business days after it arises (or such other time as the Parties may agree in writing), may be submitted at the written request of any Party to the MBTA's Director of Railroad Operations and the individual designated by PAS. These individuals shall discuss and attempt to resolve the dispute. In the event that the dispute remains unresolved twenty (20) business days after its submission (or such other time as the Parties may agree), the matter may be referred in writing by any Party to the General Manager of the MBTA and PAS's Vice President of Transportation for consideration and resolution. If the dispute still remains unresolved thirty (30) calendar days after its referral to the General Manager and PAS's Vice President of Transportation under this paragraph, the Parties may jointly agree to submit the matter to meditation under Section 14.3, below, or any Party may commence arbitration in accordance with Section 14.4 below.

14.3 Mediation.

(a) Either the MBTA or PAS may request mediation of any unresolved dispute under this Section 14.3. If a Party elects mediation and any other Party declines to have the dispute resolved by mediation under this Section, or if the Parties undertake mediation and one of the Parties unreasonably delays the expeditious conclusion of same, the aggrieved Party may proceed with other remedies available under this Agreement.

(b) The MBTA and PAS shall jointly select an independent mediator within twenty-one (21) calendar days after the submittal of a dispute under this Section 14.3. The independent mediator shall be properly qualified in the areas of surface transportation finance and the surface transportation industry, and have experience in the analysis of transportation operating and capital costs and revenues.

(c) The mediator shall meet with the Parties within twenty-one (21) days after his or her selection to attempt to mediate and resolve the dispute. If mediation efforts are unsuccessful after sixty (60) calendar days, the mediator shall, after consideration of the Parties' positions and written submissions (if so requested) issue written recommendations for resolution of the dispute. All meetings and proceedings shall be held in Boston, Massachusetts, at a time and location acceptable to both Parties.

(d) During the pendency of such mediation proceedings, the performance by both Parties of this Agreement shall continue in the same manner as before such controversy arose, unless the mediator shall make a preliminary ruling to the contrary.

(e) Each Party shall share equally the costs and expenses of any mediation conducted pursuant to this Section.

14.4 Arbitration.

It is the desire and intent of the Parties hereto to avoid the expense and delay inherent in litigation; therefore, PAS and the MBTA agree that whenever a Party desires to commence the arbitration process it shall provide written notice thereof to the other Parties and the following provisions shall apply:

(a) Except as is otherwise expressly provided in this Agreement, any dispute (including, without limitation, disputes regarding whether a matter is subject to arbitration under this Agreement) under this Agreement shall be settled exclusively in accordance with the Commercial Arbitration Rules of the American Arbitration Association and judgment upon the award entered by the Arbitrator(s) may be entered in any court having jurisdiction thereof. Arbitration shall be held in Boston, Massachusetts. It is the intent of the Parties hereto that the agreement to arbitrate contained in this Section shall be valid and irrevocable, and shall be specifically enforceable by either of the Parties hereto from and after the date of this Agreement. In interpreting this Agreement and resolving any dispute hereunder, the arbitrator(s) shall apply the laws of the Commonwealth of Massachusetts. In the event of Arbitration, each Party shall pay the compensation, costs, fees and expenses of its own witnesses, exhibits and counsel. The compensation, costs, fees and expenses of the arbitrator(s) and the American Arbitration Association shall be paid equally by the Parties.

(b) The Parties agree that neither the provisions of paragraph 14.4(a) nor Section 14.3 shall be applicable to, nor shall they be used: (i) to alter, amend, change, modify, add to or subtract from any of the provisions of this Agreement, except to the extent mutually agreed to by the MBTA and PAS in the submission of the matter to arbitration or mediation; (ii) to resolve any matter subject to the judgment or discretion of one Party to this Agreement; or (iii) except as is otherwise expressly provided herein, to resolve any matter reserved by this Agreement for the mutual agreement of the Parties.

14.5 Interest.

Where the time period during which interest accrues regarding a matter in dispute is specifically established elsewhere in this Agreement, that time period shall apply for purposes of disputes under this Agreement. For any other dispute under this Agreement, interest shall accrue from the date that payment was due, at the Effective Interest Rate.

SECTION 15 EQUAL EMPLOYMENT OPPORTUNITY

15.1 Fair Employment Practices.

Each Party agrees that it will comply with all applicable federal, state, and local laws and regulations relating to fair employment practices and non-discrimination against employees or

applicants for employment because of race, religion, creed, color, sex, national origin, disability or sexual orientation.

15.2 Subcontracts.

Each Party shall insert provisions similar to those appearing in Section 12.1 above in each subcontract, except subcontracts for standard commercial supplies, raw materials, or construction.

SECTION 16 DISADVANTAGED BUSINESS ENTERPRISES.

The Parties shall comply with all applicable federal laws and regulations relating to Disadvantaged Business Enterprises, including but not limited to regulations issued by the U.S. Department of Transportation (49 C.F.R. Part 23).

SECTION 17 EMPLOYEE WAGES AND BENEFITS

Each Party (or its contractors) shall be solely responsible for the determination of and payment of wages and benefits and other terms and conditions of employment of all such Party's employees; provided, however, that such Party shall comply with any applicable mandatory federal or state prevailing wage rate, safety, or wage/hour laws to the extent that these laws do not conflict with applicable collective bargaining agreements.

SECTION 18 APPLICABILITY

The Parties agree that this Agreement, on and as of the respective Effective Date hereof, shall supersede all previous agreements between the Parties that relate to all or any portion of the PAS Rail Properties and the MBTA Rail Properties described in this Agreement.

SECTION 19 GENERAL PROVISIONS

19.1 Additional Properties

The Parties may by mutual written agreement signed by each Party add additional segments of railroad and track to the PAS Rail Properties or the MBTA Rail Properties (and designate an effective date with respect thereto), in order to consolidate their trackage rights agreements within this Agreement.

19.2 Ownership of Service Equipment

As used in this Agreement, whenever reference is made to the trains, locomotives, cars or equipment of, or in the account of, one of the Parties hereto such expression means the trains, locomotives, cars or equipment in the possession of or operated by or on behalf of one of the Parties and including such trains, locomotives, cars or equipment which are owned by, leased to, or the responsibility of such Party.

19.3 Compliance with Laws and Operating Rules

(a) PAS and the MBTA shall comply with the provisions of applicable federal, state, and local laws, regulations, and rules respecting the operation, condition, inspection, and safety of the trains, locomotives, cars and equipment it or any affiliate or contractor operates over the PAS Rail Properties or the MBTA Rail Properties. PAS and the MBTA shall each indemnify, protect, defend, and save the other, and its officers, agents, and employees harmless from all fines and penalties imposed under such laws, rules, and regulations by any governmental or regulatory agency, or court having jurisdiction over the PAS Rail Properties or the MBTA Rail Properties, when the imposition of same is related to the failure of such Party to comply with its obligations under this Section. Nothing in this Section shall alter, modify or amend Section 8 of this Agreement.

(b) In its use of the PAS Rail Properties, the MBTA shall comply in all material respects with the operating rules and regulations of PAS, and the movement of the MBTA's trains, locomotives, cars, and equipment over the PAS Rail Properties shall be subject at all times to the orders of transportation officers of PAS.

(c) In its use of the MBTA Rail Properties, PAS shall comply in all material respects with the operating rules and regulations of the MBTA, and the movement of PAS's trains, locomotives, cars, and equipment over the MBTA Rail Properties shall be subject at all times to the orders of transportation officers of the MBTA.

(d) The MBTA shall provide employees, at its sole cost and expense, for the operation of its trains, locomotives, rail cars and rail equipment over the PAS Rail Properties. All of the MBTA's Employees who shall operate trains, locomotives, rail cars and rail equipment over the PAS Rail Properties shall be qualified by PAS for operation thereover. The MBTA shall compensate PAS for any and all Direct Costs incurred by PAS in connection with the qualification of such employees of the MBTA as well as the cost incurred by PAS for furnishing pilots, until such time as such employees of the MBTA are deemed by the appropriate examining officer of PAS to be properly qualified for operation as herein contemplated, *provided* that PAS shall not be required to administer more than three (3) qualifying attempts for any such employee. As used in this section, qualification pertains only to the employee's operation of trains, locomotives, rail cars and rail equipment on the PAS Rail Properties in accordance with PAS's operating rules and practices.

(e) PAS shall provide employees, at its sole cost and expense, for the operation of its trains, locomotives, rail cars and rail equipment over the MBTA Rail Properties. All of PAS's Employees who shall operate trains, locomotives, rail cars and rail equipment over the MBTA Rail Properties shall be qualified by the MBTA for operation thereover. PAS shall compensate the MBTA for any and all Direct Costs incurred by the MBTA in connection with the qualification of such employees of PAS as well as the cost incurred by the MBTA for furnishing pilots, until such time as such

employees of PAS are deemed by the appropriate examining officer of the MBTA to be properly qualified for operation as herein contemplated, *provided* that the MBTA shall not be required to administer more than three (3) qualifying attempts for any such employee. As used in this section, qualification pertains only to the employee's operation of trains, locomotives, rail cars and rail equipment on the MBTA Rail Properties in accordance with the MBTA's operating rules and practices.

(f) In the event PAS conducts an investigation or hearing concerning a violation of any operating rule or practice of PAS by any MBTA Employee, except officers, the MBTA shall be notified in advance of any such investigation or hearing and such investigation or hearing may be attended by any official designated by the MBTA and shall be conducted in accordance with the collective bargaining agreements, if any, that pertain to said employee or employees.

(g) In the event the MBTA conducts an investigation or hearing concerning a violation of any operating rule or practice of the MBTA by any PAS Employee, except officers, PAS shall be notified in advance of any such investigation or hearing and such investigation or hearing may be attended by any official designated by PAS and shall be conducted in accordance with the collective bargaining agreements, if any, that pertain to said employee or employees.

(h) PAS shall have the right to exclude from the PAS Rail Properties any MBTA Employee, except officers, whom PAS determines, based on the investigation or hearing described above, to be in violation of PAS's rules, regulations, orders, practices or instructions issued by timetable or otherwise, provided that PAS may exclude any MBTA Employee, except officers, from the PAS Rail Properties prior to such determination for alleged violations of PAS's rules regarding use of intoxicating beverages or drugs, or for alleged insubordination. The MBTA shall release, indemnify, defend and save harmless PAS and its officers, agents and employees from and against any and all claims and expenses arising from such exclusion.

(i) The MBTA shall have the right to exclude from the MBTA Rail Properties any PAS Employee, except officers, whom the MBTA determines, based on the investigation or hearing described above, to be in violation of the MBTA's rules, regulations, orders, practices or instructions issued by timetable or otherwise, provided that the MBTA may exclude any PAS Employee, except officers, from the MBTA Rail Properties prior to such determination for alleged violations of the MBTA's rules regarding use of intoxicating beverages or drugs, or for alleged insubordination. PAS shall release, indemnify, defend and save harmless the MBTA and its officers, agents and employees from and against any and all claims and expenses arising from such exclusion.

19.4 Disabled Trains/Wreck Clearing.

(a) If by reason of any mechanical failure or any other cause not resulting from an accident or derailment, a train or locomotive of the MBTA becomes stalled and unable to proceed under its own power, or fails to maintain the speed required

by PAS on the PAS Rail Properties, or if in emergencies crippled or otherwise defective cars are separated from the MBTA's trains on the PAS Rail Properties, PAS shall have the option of allowing the MBTA to furnish motive power or such other assistance as may be necessary to haul, help or push such trains, locomotives or cars, or to properly move the disabled equipment off the PAS Rail Properties. The MBTA shall reimburse PAS for Direct Costs incurred in rendering any such assistance.

(b) If it becomes necessary to make repairs to or adjust or transfer the lading of such crippled or defective cars in order to move them off the PAS Rail Properties, such work shall, at the option of PAS, be done by the MBTA or PAS or by the Parties' respective contractors. The MBTA shall reimburse PAS for Direct Costs incurred in rendering any such assistance.

(c) If by reason of any mechanical failure or any other cause not resulting from an accident or derailment, a train or locomotive of PAS becomes stalled and unable to proceed under its own power, or fails to maintain the speed required by the MBTA on the MBTA Rail Properties, or if in emergencies crippled or otherwise defective cars are separated from PAS's trains on the MBTA Rail Properties, the MBTA shall have the option of allowing PAS to furnish motive power or such other assistance as may be necessary to haul, help or push such trains, locomotives or cars, or to properly move the disabled equipment off the MBTA Rail Properties. PAS shall reimburse the MBTA for Direct Costs incurred in rendering any such assistance.

(d) If it becomes necessary to make repairs to or adjust or transfer the lading of such crippled or defective cars in order to move them off the MBTA Rail Properties, such work shall, at the option of the MBTA, be done by PAS or the MBTA or by the Parties' respective contractors. PAS shall reimburse the MBTA for Direct Costs incurred in rendering any such assistance.

(e) PAS shall have full responsibility for rerailling wrecking service or wrecking train service with respect to the PAS Rail Properties, including without limitation the removal of damaged equipment, repair and restoration of road bed, track, signals, communication systems and all other right of way structures and facilities affected by such wrecks ("Wreck Clearing"). The liability, cost and expense of the foregoing, including, without limitation, loss of, damage to or destruction of any property whatsoever and injury to or death of any person or persons whomsoever resulting therefrom, shall be allocated and apportioned in accordance with the provisions of Section 11 hereof. All trains, locomotives, rail cars, and rail equipment and salvage from the same so picked up and removed which is owned by the MBTA shall be promptly delivered to it. PAS shall perform its services under this Section in an expeditious manner in order to restore rail service on the line.

(f) The MBTA shall have full responsibility for rerailling wrecking service or wrecking train service with respect to the MBTA Rail Properties, including without limitation the removal of damaged equipment, repair and restoration of road bed, track, signals, communication systems and all other right of way structures and facilities

affected by such wrecks ("Wreck Clearing"). The liability, cost and expense of the foregoing, including, without limitation, loss of, damage to or destruction of any property whatsoever and injury to or death of any person or persons whomsoever resulting therefrom, shall be allocated and apportioned in accordance with the provisions of Section 11 hereof. All trains, locomotives, rail cars, and rail equipment and salvage from the same so picked up and removed which is owned by PAS shall be promptly delivered to it. The MBTA shall perform its services under this Section in an expeditious manner in order to restore rail service on the line.

19.5 Operating Duties in Regard to Safety.

Each Party shall take all reasonable safety precautions and shall provide all reasonable protection to prevent damage, injury, death, or loss to: all employees and passengers of the other Parties and all tracks, bridges, and other equipment related to the PAS Rail Properties or the MBTA Rail Properties. Unless otherwise provided by law, each Party will be responsible to give all notices and comply with all applicable laws, rules, regulations and lawful orders of any public agency in connection with its operations under this agreement bearing on the safety of persons or property or their protection from damage, injury, death or loss. Without limitation, this obligation shall include observance of any and all applicable safety rules and regulations administered by the Federal Railroad Administration or the Massachusetts Department of Public Utilities including, for example: the FRA's regulations at 49 CFR Subtitle B, Chapter II; all applicable regulations regarding the transport of Hazardous Materials or wastes prescribed by the U.S. Department of Transportation including 49 CFR Parts 171 et seq., and prescribed by the U.S. Environmental Protection Agency, including 40 CFR Part 263; and all safety rules and other operating procedures of general applicability and future effect issued by the MBTA and forwarded in writing to PAS. Each Party shall be responsible for demonstrating compliance with the above. Nothing in this Section shall alter, modify or amend Section 8 of this Agreement.

SECTION 20 ASSIGNMENT

(a) Neither Party may assign to any Person, in whole or in part, any of its rights, interests or obligations under this Agreement without the prior written consent of the other Party; provided, however, that the MBTA may assign its rights under this Agreement, in whole or in part, to any successor agency or authority, or to the Massachusetts Department of Transportation ("MassDOT") or any successor agency or authority to MassDOT.

(b) Any permitted assignment of this Agreement, in whole or in part, by either Party, its successors or assigns, shall release and discharge the assigning Party: (i) from the performance of its obligations and covenants under this Agreement, or with respect to the part hereof so assigned, as the case may be, from and after the date of such assignment, and (ii) from any liability, cost and expense arising out of or connected with this Agreement, or with respect to the part thereof so assigned, as the case may be, from and after the date of such assignment.

(c) Assignment of this Agreement, in whole or in part, shall not relieve or release any Party from any obligation assumed or from any liability which may have arisen or been incurred by such Party under the terms of this Agreement prior to the assignment hereof. The foregoing provision shall apply whether or not it is so expressly stated elsewhere in this Agreement where a right of assignment, in whole or in part, is expressly accorded any Party.

SECTION 21 FORCE MAJEURE

Each Party will be excused from performance of any of its obligations to the other under this Agreement, where such non-performance is occasioned by any event beyond the non-performing Party's control which shall include, without limitation, any order, rule, or regulation of any Federal, State, or local government body, agent, or instrumentality; work stoppage; natural disaster; terrorist act or threatened act of terrorism; or civil disorder; provided, however, that the Party excused hereunder shall use all reasonable efforts to minimize its non-performance and to overcome, remedy, or remove such event in the shortest practical time.

SECTION 22 MISCELLANEOUS.

(a) This Agreement, and the transactions to which it relates, will be governed by and construed and enforced in accordance with the law of the Commonwealth of Massachusetts. Any claim or legal action by one Party against the other shall be commenced and maintained in any state or federal court located in Massachusetts and both Parties hereby submit to the jurisdiction and venue of any such court.

(b) The MBTA acknowledges that the construction on the PAS Freight Rail Properties of Infrastructure Improvements benefitting the MBTA may result in the imposition of tax liability for PAS and/or its members. The MBTA agrees that it will reimburse PAS and/or its members for the actual costs of such liability, so long as (i) PAS and/or its members has exhausted all available remedies in contesting such imposition and (ii) PAS and/or its members provides such evidence of such costs as may be reasonably requested by the MBTA. The parties agree to cooperate in the use all reasonable means to minimize or avoid any such tax liability.

(c) This Agreement, including the Exhibits hereto, represents the entire agreement between the Parties hereto with respect to the PAS Rail Properties and the MBTA Rail Properties from and after the Effective Date, and this Agreement supersedes any and all prior discussions, proposals and communications between the MBTA and PAS with respect to the PAS Rail Properties and the MBTA Rail Properties.

(d) All notices pursuant to this Agreement shall be in writing and shall be deemed effective: (i) on the date given if delivered by hand or transmitted by facsimile on a weekday, or on the next succeeding weekday if not given on a weekday, (ii) one weekday after delivery to a reputable overnight courier service, and (iii) five days after having been deposited with the U.S. Postal Service, postage prepaid.

Notices to the MBTA shall be addressed to:

Director of Railroad Operations
Massachusetts Bay Transportation Authority
45 High Street, 9th Floor
Boston, MA 02110

Notices to PAS shall be addressed to:

General Manager
Pan Am Southern LLC
Iron Horse Park
North Billerica, MA 01862

with a copy to:

Law Department
Pan Am Southern LLC
Iron Horse Park
North Billerica, MA 01862

with a copy to:

Vice President Law
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

(e) No failure on the part of any Party to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies of the Parties provided herein are cumulative and not exclusive of any remedies provided for by law.

(f) The indemnification obligations of PAS and the MBTA hereunder (and all other obligations) that arise but which are not satisfied during the Term of this Agreement shall survive the termination of this Agreement.

(g) The section headings appearing herein are intended solely for convenience of reference and shall not be construed as affecting the interpretation of any provision hereof.

(h) This Agreement shall be binding upon, and inure to the benefit of the respective successors and assigns of the Parties.

(i) Nothing in this Agreement shall be deemed to create any right in any Person not a party hereto other than permitted successors and assigns of the Parties, and this Agreement shall not be construed in any respect to be a contract in whole or in part for the benefit of a third party except as aforesaid.

(j) The Parties represent and warrant to each other that, except with respect to a challenge by any union representing any the MBTA Employees or PAS Employees, (i) the Parties have the power and authority to enter into this Agreement and to carry out their respective obligations hereunder; (ii) the Parties have taken all legal action necessary to authorize them to enter into and perform their respective obligations hereunder; (iii) entering into and performing this Agreement does not violate any statute, rule, regulation, order, writ, injunction, or decree of any court, administrative agency or governmental body, or violate any contract or agreement by which any Party hereto is bound; (iv) there is no known litigation or proceeding pending or threatened against a Party, or any other action, which could materially or adversely affect the performance of this Agreement; and (v) the Parties have obtained all approvals as may be required to permit their respective performance of the obligations of this Agreement. Except as expressly provided herein, the Parties make no representations or warranties and waive no rights or remedies.

(k) No recourse shall be had by any Party for any claim against any officer, director, stockholder, employee or agent of any other Party alleging personal liability on the part of such Person with respect to performance of the MBTA's or PAS's obligations under this Agreement.

(l) The Parties shall collectively maintain appropriate operating and accounting records which record the locomotives, cars, weight and mileage of same moved by each Party over property owned by the other Party. Each Party shall have the right, upon reasonable notice, to inspect, examine and audit during normal business hours all operating and accounting records and supporting documents of the other Party including, without limitation, dispatching records, and all other books and records that relate to the performance of this Agreement. Nothing in this Agreement shall be construed as obligating either Party to retain books or records beyond the period specified in regulations of the STB, of the former Interstate Commerce Commission or of the Federal Railroad Administration.

(m) Any time limits specified under a provision of this Agreement may be suspended by mutual written agreement of the Parties.

(n) During the pendency of any dispute between the Parties, the business and the operations to be conducted under this Agreement, to the extent that they are the subject of any such dispute, shall continue to be transacted and used in the manner and form existing prior to the arising of any such controversy.

(o) In the event of any conflict between the text of this Agreement and that of any Exhibit hereto, the text of this Agreement shall control except to the extent

that this Agreement makes specific reference to a provision of any Exhibit as defining the obligations of a Party hereunder.

(p) In the event that any provision of this Agreement is found to be invalid or unenforceable in any respect, the remaining provisions shall nevertheless be binding with the same effect as if the invalid or unenforceable provision was originally deleted.

(q) This Agreement and the Exhibits hereto and thereto may be amended from time to time during the Term of this Agreement. The MBTA or PAS may request in writing such amendments or modifications. However, no such amendments or modification shall be effective unless evidenced by a written amendment to this Agreement executed by duly authorized representatives of both Parties hereto.

(r) This Agreement shall in no way be considered as establishing either a joint facility or a joint enterprise between the MBTA and PAS.

(s) In the performance of work under this Agreement the Parties shall be deemed to be independent contractors and no Party shall be deemed to be an agent of any other Party. Notwithstanding the foregoing, for purposes of Section 8 no Party shall be deemed to be a "contractor" of any other Party.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date above first written, in duplicate, each of which shall be considered an original.

APPROVAL AS TO FORM

MASSACHUSETTS BAY
TRANSPORTATION AUTHORITY

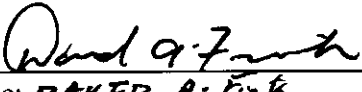
By: 

William A. Mitchell
General Counsel,
Massachusetts Bay
Transportation Authority

By: 

Richard A. Davey
General Manager

PAN AM SOUTHERN LLC

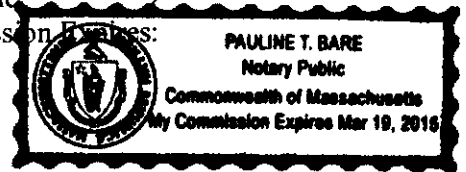
By: 

Name: DAVID A. FINK
Title: President

COMMONWEALTH OF MASSACHUSETTS, COUNTY OF Suffolk, SS.:

On this 26 day of January, 2011, personally appeared before me the above-named Richard A. Davey, an authorized signatory of the Massachusetts Bay Transportation Authority, proved to me through satisfactory evidence of identification, which was personally known, to be the person whose name is signed on the preceding instrument and acknowledged that he/she signed it voluntarily for its stated purpose as an authorized signatory of such entity and as the free act and deed of said entity.

Name: Pauline T. Bare
 Notary Public
 My Commission Expires:



COMMONWEALTH OF MASSACHUSETTS, COUNTY OF Nickerson, SS.:

On this 10th day of January, 2011, personally appeared before me the above-named David R. K, an authorized signatory of Pan Am Southern LLC, proved to me through satisfactory evidence of identification, which was Driver's License to be the person whose name is signed on the preceding instrument and acknowledged that he/she signed it voluntarily for its stated purpose as an authorized signatory of such entity and as the free act and deed of said entity.

Name: Pamela J. Hitchcock
 Notary Public



EXHIBIT A

RAIL PROPERTY	FROM	TO	CATEGORY OF RAIL PROPERTY (SEE SECTION 2)
1. <u>Wachusett Station Service</u>	MBTA owned property West of Water Street overhead bridge in Fitchburg with an approximate mileage MBTA-MP-49.5 – PAS-MP-329.55 V.S. 36.1 - Map 49 – Eng Sta - 2619+12.46	PAS MP-336 in Westminster. (MBTA-B-56) V.S. 40.1 – Map 7 – Eng Sta 2956+30.1	Level 1 Rail Properties
2. <u>Worcester Main Line Service</u>	Between the MBTA owned property at the railroad location known as CPF-AY (MBTA-36.07 PAS-316.07) in Ayer at the approximate mileage via both the east (MBTA 35.9 PAS-315.9) and west legs of the Wye (MBTA-MP-36.22 – PAS – MP-316.22) V.S. 6 – Map 29 – Eng. Sta. 1483+05	A railroad station location known as HARVARD at approximate mileage PAS / PAR mileage 25.70 in Harvard, MA where the railroad's main line continues on to Pan AM Railways owned and controlled Worcester Main Line. V.S. 6 – Map 26 – Eng. Sta. 1341+50	PAS Freight Rail Properties Note: There is no designated or established alignment through the 'HILL YARD' in Ayer (Ayer Intermodal) – It would be necessary to establish an acceptable Route through the Yard – Example: HOLD POINT – (fence) + 15 feet to the first track THEN 13 foot track center THEM 15 feet to FAR HOLD POINT – TOTAL DISTANCE MIGHT BE 45 feet in width – TWO limiting locations impacting this alignment on EAST end of yard
3. <u>Stoney Brook</u>	CPF-WL (MBTA-MP-33.72 – PAS-MP-313.77) V.S. 16 – Map 3 – Eng. Sta. 122+24.75	CPF-312 (PAR / PAS MP-311.97) V.S. 16 Map 3 Eng. Sta. 226+30	Level 1 Rail Properties

EXHIBIT A – Continued

Valuation Plans

The valuation plans referenced in the definition of “PAS Freight Rail Properties” in Section 1 of this Agreement are signed and on file with the MBTA and reduced-size copies of said plans are recorded with a counterpart of this Agreement recorded in Middlesex South District Registry of Deeds in Book 56429, Page 248.

EXHIBIT B



FORM OF PURCHASE AND SALES AGREEMENT BETWEEN

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

AND

PAN AM SOUTHERN LLC

1. Parties

PAN AM SOUTHERN LLC ("PAS"), a _____, with a principal office at _____ (hereinafter the "SELLER" or "PAS") agrees to sell and convey to the **MASSACHUSETTS BAY TRANSPORTATION AUTHORITY**, a body politic and corporate and a political subdivision of the Commonwealth of Massachusetts with a usual place of business at Ten Park Plaza, Boston, Massachusetts 02116, its successors or assigns (hereinafter the "BUYER" or the "MBTA") and BUYER agrees to buy the following described Premises subject to the terms and conditions hereof.

Seller and Buyer are parties to the certain Trackage Rights Agreement (the "Trackage Rights Agreement") by and among Seller and Buyer, dated _____, 2011. The property to be conveyed under this Purchase and Sale Agreement (the "Agreement") is being conveyed by Seller to Buyer consistent with Section 6 of the Trackage Rights Agreement.

2. Premises

The premises consist of the following parcels of land, as shown on the plans attached hereto as Exhibit A, together with all improvements thereon and appurtenances thereto (the "Premises"):

[TBD]

For SELLER's title see _____

3. Quality of Title

The Premises are to be conveyed by a good and sufficient quitclaim deed of SELLER substantially in the form attached hereto as Exhibit B (the "Deed"), conveying a good and marketable title to the same, free from all encumbrances, except:

- (a) Provisions of existing building, environmental, and zoning laws, together with any rights the public may have to the use of any roads, alleys, bridges or streets on or crossing the Premises;
- (b) Existing rights created by instruments of record in party or partition walls;
- (c) Such taxes for the current tax year as are not due and payable on the date of the delivery of the Deed, and any liens for municipal betterments assessed after the date of execution of this agreement by BUYER;
- (d) Easements, restrictions, reservations, eminent domain takings, and other matters by third parties, whether or not of record, existing on the date of execution of this agreement by BUYER, including but not limited to, tenancies, encumbrances, easements, rights, trackage use, leases, licenses, permits, privileges, agreements (including side track agreements), and freight interchange agreements or arrangements, and any state of facts that an accurate survey or prudent inspection of the Premises would disclose (collectively, "Encumbrances") provided, however, that all material Encumbrances known to SELLER have been disclosed in writing to BUYER no more than seven (7) days after the delivery of the Exercise Notice pursuant to Section 6 of the Trackage Rights Agreement, and, at the request of BUYER at any time prior to the expiration of the Due Diligence Period, the Purchase Price has been adjusted in light of any such Encumbrances. If at any time prior to the Closing, it is determined that SELLER has failed to disclose the existence of a material Encumbrance to BUYER of which SELLER had prior knowledge, then, notwithstanding any provision of the Purchase and Sale Agreement to the contrary, BUYER shall be entitled to retract its initial Exercise Notice by written notice to Seller and deliver a replacement Exercise Notice to SELLER, at which point the Purchase Price

shall be re-determined in accordance with Section 6 of the Purchase and Sale Agreement;

- (e) Any encroachments or other survey matters existing as of the date of this Agreement.
- (f) That certain Trackage Rights Agreement dated _____, 2011 (the "Trackage Rights Agreement").
- (g) SELLER's Retained Easement, as that term is defined in the Trackage Rights Agreement, and the Telecommunications Easement (as defined below).
- (h) any pipes, wires, poles, cables, culverts, drainage courses or systems, or other facilities on or crossing the Premises, together with the rights of any person entitled thereto to maintain, repair, renew, replace, use or remove the same, provided, however, that all material such improvements known to SELLER have been disclosed in writing to BUYER no more than seven (7) days after the delivery of the Exercise Notice pursuant to Section 6 of the Trackage Rights Agreement, and, at the request of BUYER at any time prior to the expiration of the Due Diligence Period, the Purchase Price has been adjusted in light of any such improvements. If at any time prior to the Closing, it is determined that SELLER has failed to disclose the existence of such improvements to BUYER of which SELLER had prior knowledge, then, notwithstanding any provision of the Purchase and Sale Agreement to the contrary, BUYER shall be entitled to retract its initial Exercise Notice by written notice to Seller and deliver a replacement Exercise Notice to SELLER, at which point the Purchase Price shall be re-determined in accordance with Section 6 of the Purchase and Sale Agreement; and
- (i) general real estate taxes for the year of the Closing for the year of the Closing and subsequent years not yet due and payable.

The "Telecommunications Easement" shall be an easement reserved in the deed to be delivered by SELLER to BUYER pursuant to this Agreement of a permanent, exclusive (excepted as noted below) right of way and easement in, on, over, under, across and through the Premises for the purpose of accessing, constructing, installing, operating, maintaining, modifying, repairing, replacing, relocating and removing a

telecommunications system or other system for transmission of intelligence or information by any means, whether now existing or hereafter devised, including such poles, pipes, wires, fibers, fiber optic cables, repeater stations, attachments, appurtenances, structures or other equipment and property of any description necessary or useful for the same. The Telecommunications Easement shall include the right to freely lease, license, mortgage, assign, pledge and otherwise alienate the Telecommunications Easement. The BUYER shall in the deed covenant with the SELLER to recognize the Telecommunications Easement and, without the payment of any further consideration, to execute, acknowledge and deliver such instruments suitable for recording with the registry of deeds as the SELLER may reasonably require to acknowledge title to the Telecommunications Easement in the SELLER. The Telecommunications Easement shall include an obligation in the SELLER to reasonably repair and restore the surface of the easement area after any work, shall require the reasonable approval of the BUYER as to location of the easement and any improvements constructed therein, and limits to the extent of any surface or overhead improvements constructed pursuant to the easement. No activities, operations or improvements undertaken pursuant to the easement may materially interfere with present or future railroad operations or improvements, and the BUYER may impose reasonable conditions on any construction undertaken pursuant to the easement (such as, but not limited to, minimum load-bearing requirements, clearance requirements, etc.). SELLER shall be responsible for all costs of any construction undertaken pursuant to the easement, including the costs of any environmental remediation, and shall indemnify and hold harmless BUYER from any such costs. The exclusivity of the Telecommunications Easement shall not limit the right or ability of the BUYER (or any third party claiming by, through or under BUYER) to install, use and operate telecommunication or information systems of any nature (such as, but not limited to, railroad signal systems, positive train control (PTC) systems, ticket vending communications, security systems cameras and advertising systems) whose primary purpose is related to rail operations or passengers or the display of information on or from the Premises.

4. **Purchase Price.** The purchase price for this conveyance is _____ DOLLARS (\$____) (the "Purchase Price") and such other good and valuable considerations. Subject to the terms and conditions of this Agreement, the Purchase Price shall be paid as follows: On the Closing Date, the Deposit (defined below) shall be paid to SELLER and applied in reduction of the Purchase Price payable at Closing. The balance of the Purchase Price, subject to adjustments and prorations provided for in this Contract, shall be paid by BUYER, pursuant to an escrow arrangement to be agreed upon by the Parties, by wire transfer of immediately available federal funds and the agreed-upon escrow agent shall transfer such funds, together with the Deposit, by wire transfer of immediately available funds to such account(s) as SELLER may designate in writing.
- 4.1 **Deposit.** BUYER has, prior to or simultaneously with, the execution of this Agreement by SELLER, delivered ten percent (10%) of the Purchase Price (the "Deposit") to SELLER which shall hold the Deposit. Except as otherwise provided in this Agreement, should this Agreement be terminated prior to the Closing (including by BUYER in its sole discretion as a result of any due diligence investigations conducted as described herein), SELLER shall return the Deposit to BUYER.
5. **Time of Performance**
The Deed is to be delivered and the remainder of the Purchase Price paid at _____, Boston, Massachusetts, on or before _____, (the "Closing Date"). The parties may mutually agree in writing on some other place and time as the Closing Date.
6. **Survey**
If required by BUYER, SELLER shall furnish to BUYER, at BUYER'S expense: (i) an ALTA survey (the "ALTA" Survey) of the Premises to be conveyed; and (ii) a "metes and bounds" description of the Premises to be conveyed. A Registered Land Surveyor shall prepare the ALTA Survey. SELLER shall provide to BUYER said ALTA Survey and the metes and bounds description not less than fifteen (15) days before Closing.
7. **Regulatory and Permitting Approvals**
(a) BUYER is responsible for obtaining any plan required in order to record the Deed with the Registry of Deeds at BUYER's expense. If a plan is required in order to

record the Deed, SELLER agrees to provide BUYER access to the Premises, subject to reasonable access agreements including any necessary indemnifications, in order for BUYER to produce such a plan no later than fifteen (15) days prior to Closing. Closing shall be expressly contingent upon receiving all applicable regulatory approvals or exemptions for this transaction and the acceptance of all conditions imposed by such approvals or exemptions that are not unreasonably objectionable to either BUYER or SELLER. For the sake of clarity, any condition of approval or exemption which grants another freight rail carrier rights over the Premises shall be deemed to be reasonably objectionable.

(b) BUYER, at its own cost and expense, shall prepare and file with any federal, state or local regulatory agency or department that has jurisdiction over all or any part of the transaction contemplated by this Agreement, all applications, petitions, requests, notices or other necessary filings (each a "Submission to Governmental Authority"), including an appropriate application or petition for exemption or notice of exemption to the Surface Transportation Board ("STB"), and BUYER shall do and take all actions necessary and prudent to obtain the requisite approvals, other authorizations, or exemptions from the necessity of such approvals to permit consummation of the transaction contemplated by this Agreement at the earliest practicable date. BUYER shall provide to SELLER a draft of each Submission to Governmental Authority with sufficient time to permit SELLER to review, comment upon and approve the same prior to filing. SELLER shall execute and deliver such other further documentation as may be necessary in order to obtain, and shall support fully the efforts of BUYER to obtain, such governmental approvals or exemptions. BUYER at its own expense shall oppose any petition to reopen, reconsider or stay a regulatory order or authorization approving or exempting this transaction or any part thereof, and shall defend any judicial action brought by any person challenging or otherwise contesting any necessary regulatory approval or contesting the right of either party to consummate this transaction.

8. **Title/Extension to Perfect Title**

BUYER has obtained a complete review of the title to the Premises and agrees that, as of the date of execution hereof by BUYER, as to all record encumbrances, the Premises meets the requirements of Section 3 hereof. BUYER hereby waives any and all title defects existing as of the date of execution hereof by BUYER. SELLER agrees that BUYER shall have the rights with respect to defects in title matters only for defects arising after the date of execution hereof by BUYER and with respect to unrecorded encumbrances first disclosed after the date hereof as further specified in this Section 8. BUYER hereby specifically waives and agrees to hold harmless SELLER for any Claim (as hereinafter defined) arising from any deficiency in SELLER's title to, or property rights in, the Premises, or any rights held or claimed by third parties in or to the Premises other than material title defects existing as of the date of execution hereof and known to SELLER which were not disclosed to BUYER in writing prior to the execution hereof. Notwithstanding the foregoing, any instrument that constitutes a title defect and that is recorded after the execution by BUYER of this Agreement or any survey matter first arising after the execution by BUYER of this Agreement ("Late Defect") shall not be waived and SELLER shall use reasonable efforts to remove any such Late Defect and SELLER's time for performance shall be extended for a period of up to sixty (60) days to remove any such Late Defect, and SELLER shall, in all events cause to be released any mortgage or voluntary encumbrance appearing of record after the date of execution hereof by BUYER securing the payment of money that affects the Premises. "Reasonable efforts" shall be limited to those costing less than a total of Twenty - Five Thousand (\$25,000) Dollars. If, at the expiration of such extended time, SELLER fails or is unable to remove such encumbrances and defects in title to the reasonable satisfaction of the BUYER, then the BUYER may elect to terminate this Agreement. In the event of such election, all obligations of either party hereunder shall cease and this Agreement shall be null and void, except that any tort liability of BUYER that arose pursuant to Section 13 hereof shall remain.

9. **Acceptance of Deed**

BUYER shall have the election, at either the original or any extended time for performance, to accept such title as SELLER is able to deliver to the Premises in its then condition and to pay the remainder of the Purchase Price without deduction. The

acceptance of a Deed and possession by BUYER shall be deemed to be full performance and discharge hereof.

At the Closing, SELLER shall deliver the following documents in reasonably satisfactory form and substance to BUYER and BUYER's counsel, properly executed and acknowledged as required:

- (i) Quitclaim Deed, in a form acceptable to BUYER and SELLER;
- (ii) (a) such evidence of existence and authority as may reasonably be requested by BUYER; and (b) affidavits reasonably acceptable to the BUYER regarding parties legally in possession and mechanics' or materialmen's liens; and
- (iii) An original of a closing statement setting forth the Purchase Price, the closing adjustments and the application thereof at the Closing (the "Closing Statement"); and
- (iv) Such other documents as may reasonably be required to complete the transaction contemplated by this Agreement.

The Assignment Agreement in the form attached hereto as Appendix C, duly executed by SELLER and BUYER, whereby SELLER assigns to BUYER and BUYER assumes from SELLER, the leases, easements, licenses, permits, agreements, sidetrack agreements, privileges and other documents pertaining to the portion of the Premises and to be assigned to BUYER that are identified in Appendix C, provided that all such material documents, items or matters to be assigned to BUYER shall have been disclosed in writing to BUYER by SELLER prior to the delivery of the Exercise Notice pursuant to Section 6 of the Trackage Rights Agreement. If any such documents pertain partly to the Property and partly to other property now or formerly owned by SELLER, the Assignment and Assumption will assign to BUYER only the portion thereof that relates to the Premises.

Without limiting any of the other conditions to BUYER's obligations to close set forth in this agreement, the obligations of BUYER under this agreement are subject to the reasonable satisfaction of BUYER at the time of Closing of the following condition (which may be waived in whole or in part by BUYER at or prior to Closing): The Premises shall be materially in the same condition as it was in on the date of execution of this Agreement by BUYER, excepting therefrom: (i) reasonable use and wear (where reasonable use and wear and tear includes the present uses of the Premises conducted in accordance with applicable law); ii) minor damage to above-ground structures not

intentionally caused by SELLER; and (iii) any alterations or damage to the Premises caused by or attributable to BUYER or any party acting on BUYER's behalf.

If on the Closing Date, the conditions of Section 9 have not been satisfied, then, at BUYER's option, all obligations of either party hereunder shall cease and this Agreement shall be null and void.

Closing shall be expressly contingent upon the Quitclaim Deed containing the language acceptable to BUYER and SELLER incorporating the appropriate terms and conditions from the Trackage Rights Agreement and that certain deed between the Boston and Maine Corporation and the SELLER dated December 24, 1976.

As soon as practicable after closing, BUYER shall record the Quitclaim Deed delivered by SELLER in the jurisdiction(s) in which the Premises is located.

10. No Brokers

BUYER hereby represents and warrants that it has not dealt with any broker who is entitled to a commission or fee in connection with the conveyance contemplated hereby, and covenants to pay, hold harmless and indemnify SELLER from and against any and all claims for any such commissions or fees. SELLER hereby represents and warrants that it has not dealt with any broker or other entity who is entitled to a commission or fee in connection with the conveyance contemplated hereby, and SELLER covenants to pay, hold harmless and indemnify BUYER from and against any and all claims for any such commissions or fees. The representations, warranties, and agreements contained in this paragraph shall survive the delivery of the deed and/or any expiration or termination of this agreement.

11. Condition of the Premises

SELLER hereby expressly disclaims any warranties of any nature, express or implied or otherwise, except as expressly set forth herein. Except as is provided in this Section 11, below, BUYER hereby acknowledges that SELLER is selling and BUYER shall accept the Premises in an "as is" condition and with "all faults" as of the Closing Date, including environmental conditions, without any warranty or representation by, and without recourse to, SELLER, its agents or representatives whatsoever relating to the Premises.

BUYER further acknowledges and confirms that BUYER is not relying on any representation or inducement which was or may have been made or implied by SELLER or any other party acting on behalf of SELLER with respect to the Premises, including, without limitation, the fitness of the Premises for any proposed use, the suitability of the Premises for any particular purpose, or as to the ability of the BUYER to obtain any necessary permits or approvals.

12. **Post-Closing**

After Closing, BUYER shall be responsible for:

(a) All Claims, except to the extent otherwise allocated by applicable provisions of the Trackage Rights Agreement or caused by the gross negligence or willful misconduct of SELLER, that arise out of, in respect to, or in connection with, the physical condition, safety, utility, adequacy, marketability, value, suitability or fitness of the Premises conveyed to BUYER, or any portion thereof, or any defects therein, including without limitation (and except as set forth above), Claims relating to (i) public or private streets, bridges, underpasses or other crossings, (ii) the removal or remediation of contaminating materials or substances, (iii) the demolition of structures or abatement of nuisances, (iv) the flow or obstruction of surface or subsurface waters, (v) the stability of the soil on, above, over, or adjacent to the Premises, (vi) support for, or by, adjacent property or the collapse of soil or other materials or buildings onto adjacent property, and (vii) the construction, repair, rehabilitation, alteration, maintenance, or use of the Premises;

(b) Claims, except to the extent otherwise allocated by applicable provisions of the Trackage Rights Agreement or caused by the gross negligence or willful misconduct of SELLER, that are imposed by the regulations or orders of any regulatory or licensing agency, or by agencies or governmental bodies responsible for preserving the public health or safety, the environment, natural resources, wildlife, historic sites, vegetation, public parks or forests or wetlands, other than those imposed prior to Closing and not otherwise allocated according to this Agreement;

(c) Claims, except to the extent otherwise allocated by applicable provisions of the Trackage Rights Agreement or caused by the gross negligence or willful misconduct of SELLER, that are imposed by building or construction codes, or licensing, subdivision or zoning requirements, including Claims relating to licensing, permits, notices, and fees,

other than those imposed prior to Closing and not otherwise allocated according to this Agreement; and

(d) Except to the extent otherwise allocated by applicable provisions of the Trackage Rights Agreement or caused by the gross negligence or willful misconduct of SELLER, BUYER shall have the responsibility allocable by law to the owner of the Premises with respect to all Claims arising out of personal injury to or the death of persons or loss of, or damage to, property (including the property of the parties hereto) occurring on or about the Premises after Closing.

Notwithstanding the foregoing, BUYER shall not be responsible for any Claims related to the existence of, or the use by or occupancy of the Telecommunications Easement by SELLER or any party claiming by, through or under SELLER.

13. Environmental Investigation

The BUYER, at BUYER'S expense, may complete a Phase One environmental investigation of the Premises upon execution of this Agreement by BUYER. Such investigation, if conducted, must be completed within ninety (90) days after BUYER's execution of this Agreement. BUYER shall waive its right to conduct or complete such investigation if it is not completed within said time period. If requested by the SELLER in writing and not otherwise, BUYER shall submit to the SELLER investigatory reports obtained by the BUYER within one (1) week of SELLER's written request. BUYER hereby indemnifies and holds harmless SELLER and agrees to defend SELLER and release and save SELLER harmless from and against any and all liabilities, losses, damages, costs, expenses (including reasonable attorneys' expenses and fees), causes of action, suits, claims, demands or judgments of any nature whatsoever (collectively the "Claims") to the extent due to the actions of BUYER or its employees, contractors or consultants ("Buyer Personnel") while on the Premises to perform an environmental investigation permitted in this Section 13 or to the extent due to sickness of, injury to or death of Buyer Personnel related to the condition (including the environmental condition) of the Premises while Buyer Personnel were on the Premises to perform an environmental investigation permitted in this Section 13, except and to the extent that the Claims arose because of SELLER's gross negligence or willful misconduct (it being agreed that it shall not be "grossly negligent" for SELLER to allow access to the Premises in its "As Is" condition). In the event that the Closing occurs, and not

otherwise, BUYER shall be responsible for any voluntary or required remediation arising as a result of BUYER's environmental investigations and performed prior to the Closing Date. For clarification, any voluntary or required remediation performed after Closing shall also be done at BUYER's expense, without recourse to SELLER. Prior to undertaking such Phase One investigation, and again prior to the Closing Date, BUYER shall provide to SELLER reasonable evidence of BUYER's ability and authority to provide each of the indemnifications set forth in this Section.

Prior to entry on the Premises pursuant to this Section 13, BUYER (or its environmental consultant) shall provide SELLER with a certificate or certificates of insurance covering all days that BUYER and BUYER's consultants and contractors will be on the Premises before the Closing Date, evidencing the insurance of the activities permitted hereunder, and BUYER's covenant of indemnification hereinabove, with companies that are reasonably acceptable to SELLER as stated below, in which BUYER and others hereinafter specified are additional insureds as their interests may appear and which provides coverage as stated below.

(a) Commercial General Liability Insurance

Insuring BUYER, SELLER, the Premises and all activities allowed hereunder as well as BUYER's indemnification obligations contained in this Section 13 with minimum liability coverage for personal injury, bodily injury and property damage with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in aggregate. Umbrella liability coverage with limits of not less than Five Million Dollars (\$5,000,000.00) covering all work performed must also be provided. Such insurance shall be written on an occurrence basis as opposed to a claims made basis. These policies shall name SELLER as an additional insured.

(b) Automobile Liability Insurance

Automobile liability insurance shall be provided by BUYER with limits of not less than One Million Dollars (\$1,000,000.00) covering all owned, non-owned, hired, rented or leased vehicles of BUYER and its consultants and

contractors that are used in the activities permitted hereunder. The policy shall contain a waiver of subrogation clause in favor of SELLER.

(c) Worker's Compensation Insurance

Worker's Compensation Insurance insuring all persons employed by BUYER in connection with any work done on or about the Premises with respect to which claims for death or bodily injury could be asserted against the BUYER or the Premises with limits of liability of not less than those required by Massachusetts General Laws Chapter 152, as amended. The policy shall contain a waiver of subrogation clause in favor of SELLER. Each of BUYER's contractors and consultants shall have similar policies covering their employees.

14. Leases, Licenses, Uses and Occupancies

SELLER shall yield-up full possession of the Premises on the Closing Date free and clear of all tenants, parties in possession and/or occupants, except for those listed in the attached Exhibit C. Notwithstanding the foregoing, BUYER shall have no claim against SELLER with respect to any person, firm, corporation or other entity that has a non-material interest in the Premises of which SELLER has no knowledge.

15. Beneficiaries.

Except as specifically otherwise provided herein, this Agreement is intended for the sole benefit of the parties hereto. Nothing in this Agreement is intended to or may be construed to give any person, firm, corporation, or other entity, other than the parties hereto, any rights pursuant to any provision or term hereof, and all provisions and terms of this Agreement are and shall be for the sole and exclusive benefit of the parties to this Agreement.

16. Buyer's Default Damages

Once BUYER has executed this agreement, BUYER shall be in default for failure to purchase the Premises if, for any reason other than failure of SELLER to deliver title pursuant to Section 3 above or to fulfill its obligations set out in this agreement, BUYER fails to purchase the Premises. If BUYER shall be in default

for failure to purchase the Premises, SELLER'S remedy shall be to retain the Deposit and, to the extent not covered by retention of the Deposit, an amount equal to Seller's costs of the appraisal and all other costs associated with the process of preparing for the sale as described in Section 6 of the Trackage Rights Agreement in full settlement any and all claims arising under, or in any way related to, this agreement and with no further recourse against Buyer, either in law or in equity. This Section 16 does not apply to any other damages SELLER may have suffered as a result of BUYER'S default under Section 10 or 13 of this agreement. Notwithstanding anything contained herein to the contrary, if BUYER fails to fulfill any of its obligations set forth in this agreement (other than BUYER's obligation to purchase the Premises as set forth in this agreement), such failure shall in no event be a default hereunder unless SELLER has given BUYER written notice of such failure and BUYER fails to remedy such failure within ten (10) days of receiving such written notice.

17. Construction of Agreement

The contracting parties agree that this is a Massachusetts contract. It is mutually agreed that any oral representation made by either party prior to the signing of this agreement is null and void.

18. Notices

Any notice or other communication in connection with this agreement shall be deemed given when received or when delivered by messenger or overnight mail or upon attempted delivery if delivery is not accepted. Such notices shall be in writing and shall be deemed to have been properly given when deposited in registered or certified United States mail, return receipt requested, addressed, as described in Paragraph 1 of this agreement (except with respect to SELLER such notice shall be sent to the MBTA Director of Real Estate at such address) or when delivered by messenger or overnight mail service to the correct addressee. In addition, a duplicate notice from BUYER shall be sent in the same manner as the notice to SELLER to SELLER'S _____ and a duplicate notice from SELLER shall be sent in the same manner as the notice to BUYER and to BUYER'S

representative, _____. Either party may change the address(es) at which notices are to be received by notice given as set forth above.

19. Authority of Signatory

If BUYER or SELLER executes this agreement by agent or representative, such agent or representative hereby warrants and represents to SELLER or BUYER (as applicable) that (s)he is authorized to execute, acknowledge, and deliver this agreement on behalf of such party and to thereby bind such party to the same. This warranty shall survive the delivery of the Deed.

20. Severability

If any term of this agreement or the application thereof to any person or circumstance shall, at any time, or to any extent be deemed invalid or unenforceable, the remainder of this agreement and the application of such term to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected, provided that the benefits due to and burdens imposed on either party are not thereby materially altered.

21. No Waiver

No delay or omission on the part of either party in exercising its rights under this agreement shall constitute a waiver of such right or any other right under this agreement. Also, no waiver of any such right on one occasion shall be construed as a waiver of it on any other occasion.

22. Entire Agreement

This agreement and the Trackage Rights Agreement constitute the entire agreement between the parties relating to the subject matter hereof, supersedes all prior oral or written offers, negotiations, agreements, understandings, and courses of dealing between the parties relating to the subject matter hereof and is subject to no understandings, conditions, or representations other than those expressly stated herein. This agreement may only be modified or amended by a writing, signed by both parties, that specifically states that it modifies or amends this agreement.

23. Assignment

This agreement shall not be assigned except upon written consent of both parties, to be granted or withheld in the sole discretion of each. If assigned, this agreement shall be binding upon the parties hereto and their respective successors and assigns.

24. Survival of Terms

All representations (as modified pursuant to the provisions hereof), warranties, covenants, terms, conditions, stipulations, and provisions of this Agreement shall survive Closing and be binding upon and inure to the benefit of and be enforceable by, the Parties, and their successors and permitted assigns.

25. Apportionments

(a) Real estate transfer taxes and sales or use taxes, if any, imposed by law shall be borne and paid by BUYER. For the year during which the Closing occurs, rents, income, and other revenues and expenses pertaining to the Premises that are the subject of the Closing from leases, easements, licenses, permits, agreements, privileges, and other documents, if any, the rights and obligations to which are to be assigned by SELLER and assumed by BUYER, as well as real property taxes and utility charges, shall be apportioned between the parties as of the date of Closing, to the extent such rents, income, revenues, expenses, taxes and charges are accruing both before and after the date of Closing, regardless of the date assessed, paid or payable; provided, however, that any real property taxes will be apportioned on a daily basis. Any installments or special taxes or assessments levied, due and unpaid on the Premises prior to Closing shall be paid by SELLER. In respect to any payments made by or to either party, whether before or after closing, appropriate remittances shall be made promptly to assure that such items are apportioned as of the date of closing.

(b) At Closing, BUYER shall sign, and deliver to SELLER for mailing, a notification letter in the form attached hereto as Appendix H, requesting all persons as identified in said letter providing electric, gas, water, telephone or other utility services to the Premises or any part thereof, to transfer such services and billing therefor to BUYER, effective at Closing, and to issue a final bill to SELLER for such utility service. BUYER shall refund to SELLER any payments previously made by SELLER for utility services furnished or to be furnished after closing.

(c) All recording costs and filing fees required to be paid with respect to documents under this Agreement, and the cost of a survey, if one is required, shall be the sole responsibility of BUYER.

(d) Each party hereto shall be entitled to avail itself of any exemption from the payment of any taxes or fees that it may enjoy.

IN WITNESS WHEREOF, the said parties hereto set their hands and seals on the day and year written below the party's signature

SELLER	BUYER
PAN AM SOUTHERN LLC	MASSACHUSETTS BAY TRANSPORTATION AUTHORITY
By: _____ Its: _____	By: _____ Its: _____
Date of Execution: _____	Date of Execution: _____
	Approved as to Form _____ General Counsel

EXHIBIT A

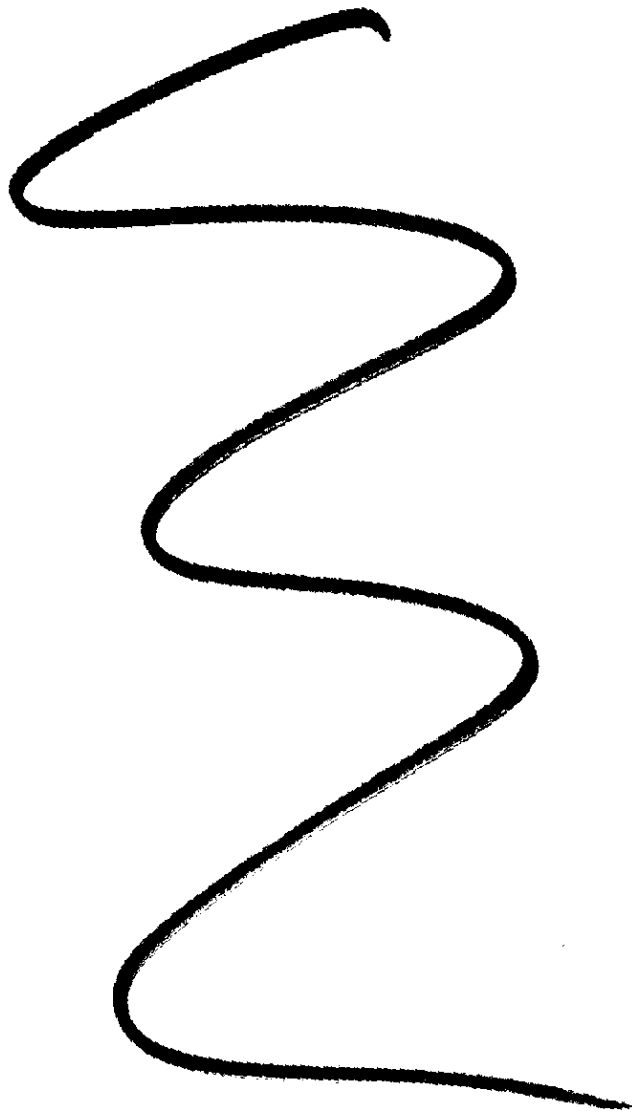


EXHIBIT C

DIRECT COSTS BILLABLE

Controlling Party shall only be reimbursed for Direct Costs incurred in the provision of Force Account Work. Direct Costs may be billed in five component categories: labor costs, specified employee benefit costs, the cost of materials expended, contracted services, and other identifiable and auditable costs. The estimated cost of each category must be identified on each Force Account estimate submitted and shall be of sufficient detail for the Requesting Party to review the appropriateness of the cost to the project. Requesting Party may reject any cost submitted that does not appear appropriate or in compliance with the terms of this Agreement.

The five component categories for Direct Costs are described below:

1. Labor costs shall include the costs of salaries and wages earned by Controlling Party Personnel directly engaged in providing Force Account Work, as well as vacation and holiday pay for those Controlling Party Personnel. For Controlling Party Personnel that are engaged full-time in providing services under this Agreement, the Direct Costs for labor shall include the costs of labor salaries and wages for overtime, if any, that is only incurred directly for the provision of Force Account Work. The actual cost of vacation payment pay of Controlling Party Personnel engaged in the authorized Force Account Work during the period in which such services are being provided pursuant to this Agreement shall be included as Direct Costs. Vacation pay, owed to such Controlling Party Personnel in the year subsequent to the termination of this Agreement to the extent that such vacation pay was accrued in relation to an authorized Force Account project during the Term of this Agreement shall not be included as Direct Costs

2. Employee benefit costs shall include insurance for disability, sickness, health and dental coverage, FELA and worker's compensation, Railroad Retirement and other employment taxes, as well as life insurance and travel insurance.

3. Material costs shall include the costs of all materials, whether issued from the Agreement Services inventory (at Requesting Party's system average price) or purchased specifically for use in providing the authorized Force Account Work. In the event that PAS is the Controlling Party, PAS shall have the option to request that the MBTA and/or the Requesting Party acquire the materials at no cost to PAS.

4. Contracted services shall include payments to third parties selected as set out below for provision of goods or services required for the authorized Force Account Work. Equipment rental or leasing shall not be reimbursed as a Direct Cost when Requesting Party equipment was available.

(a) For goods and services with a total estimated value of less than \$2,500, Controlling Party shall procure such goods and services as it sees fit.

(b) For goods and services with a total estimated value of between \$2,500 and \$25,000, Controlling Party shall obtain telephone or fax price quotes from multiple vendors.

(c) For goods and services with a total estimated value of more than \$25,000, Controlling Party shall conduct a formal competitive bid process.

5. Other costs shall include expenses necessary to effectively provide the Force Account Work. Examples of such costs are:

Office Supplies & Equipment

Printing & Photography

Service Disruption Expenses, including Alternate Transportation

Per Diem Payments in Lieu of Travel Expense

6. Equipment Costs shall include the actual cost of equipment at the applicable Blue Book rate for all such equipment used in a project.
7. Salvage Costs In the event that PAS elects to retain salvage from a project, the cost of that salvage retention shall not be a billable cost, nor shall PAS be required to credit the cost of the project for the value of such salvage retained.

Exhibit D

Freight Main Line

Stoney Brook	CPF312 to CPF-WL	FRA Class I	(freight)
Fitchburg Main Line	Mile Post 49.4 to Mile Post 336	FRA Class III	(freight)

W. N. & P – Worcester Branch

Worcester Main	CPF-AY to Harvard (mp25.7)	FRA Class I	(freight)
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**FIRST AMENDMENT TO THE
2011 PAS TRACKAGE RIGHTS AGREEMENT**

FIRST AMENDMENT TO 2011 TRACKAGE RIGHTS AGREEMENT
BY AND AMONG
THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY AND
PAN AM SOUTHERN LLC

This First Amendment (the "Amendment") to the 2011 Trackage Rights Agreement dated as of January 10, 2011 (the "Agreement") is made and entered into on October 31, 2014 by the Massachusetts Bay Transportation Authority ("MBTA"), a body politic and corporate and a political subdivision of the Commonwealth of Massachusetts, established under the provisions of Massachusetts General Laws, Chapter 161A, as amended, and with a principal place of business at 10 Park Plaza, Boston, Massachusetts 02116, and Pan Am Southern LLC, a Delaware limited liability company ("PAS") (the MBTA and PAS collectively, the "Parties"), in order to memorialize the agreement of the Parties in connection with the amendment of the Agreement.

Any capitalized terms used but not defined herein shall have the meanings set forth in the Agreement.

WHEREAS, Section 22(q) of the Agreement provides that the Parties may amend the Agreement by written agreement from time to time during its term, and the Parties desire to amend the Agreement as set forth in this Amendment;

NOW THEREFORE, in consideration of the terms, conditions, and mutual promises set forth in the Agreement and this Amendment, the Parties hereby agree as follows:

The Agreement is hereby amended as follows:

1. In Section 1, the definition of "PAS Freight Rail Properties" is hereby deleted and replaced with the following:

“PAS Freight Rail Properties” shall mean Level 1 Rail Properties and Level 2 Rail Properties. The PAS Freight Rail Properties shall mean the real property owned by PAS described on Exhibit A hereto and shown on the valuation plans attached as part of such Exhibit A, with the exception of the areas marked with cross-hatching on such valuation plans, provided, however, that the definition of PAS Freight Rail Properties shall include, be modified by, and be subject to the handwritten notes on such valuation plans signed by representatives of both PAS and the MBTA. For the sake of clarity, property acquired by PAS subsequent to the Effective Date is not included in the PAS Freight Rail Properties.”
2. In Section 2, the following phrase is hereby deleted: “, with the exception of the Worcester Main Line property described on Exhibit A, which shall be considered a PAS Freight Rail Property but not a Level 1 Rail Property or a Level 2 Rail Property”.

3. In Section 7.1, the following phrase is hereby deleted: "(or, in the case of the Worcester Main Line property described on Exhibit A, a PAS Freight Rail Property)".
4. The first page of Exhibit A of the Agreement is hereby replaced with the document attached to this Amendment as Exhibit A.

The 2011 Trackage Rights Agreement amended by this Amendment is recorded in the Middlesex South District Registry of Deeds in Book 56429, Page 248; the Worcester District Registry of Deeds in Book 47232, Page 120; and the Worcester North District Registry of Deeds in Book 7383, Page 181.

[Signatures on following page.]

IN WITNESS WHEREOF, the MBTA and PAR have executed this First Amendment to the 2011 Trackage Rights Agreement on the date above first written.

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

By: B.A. Scott
Beverly A. Scott, Ph.D
General Manager and Rail & Transit Administrator

Date: 10/31/14

Approved as to Form:

By: Paige Scott Reed
Paige Scott Reed
General Counsel, MassDOT and MBTA

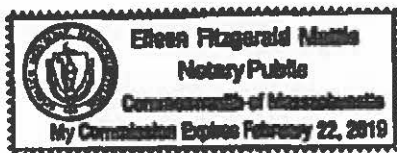
Date: 10/30/14

PAN AM SOUTHERN

By: _____
Name:
Title:

COMMONWEALTH OF MASSACHUSETTS, COUNTY OF Suffolk, SS.:

On this 31st day of October, 2014, personally appeared before me the above-named Dr. Beverly Scott, an authorized signatory of the Massachusetts Bay Transportation Authority, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding instrument and acknowledged that he/she signed it voluntarily for its stated purpose as an authorized signatory of such entity and as the free act and deed of said entity.



Name: Eileen Fitzgerald Mattis
Notary Public Eileen Fitzgerald Mattis
My Commission Expires: 2/22/19

COMMONWEALTH OF MASSACHUSETTS, COUNTY OF _____, SS.:

On this ____ day of October, 2014, personally appeared before me the above-named _____, an authorized signatory of Springfield Terminal Railway Company, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding instrument and acknowledged that he/she signed it voluntarily for its stated purpose as an authorized signatory of such entity and as the free act and deed of said entity.

Name:
Notary Public

COMMONWEALTH OF MASSACHUSETTS, COUNTY OF _____, SS.:

On this ____ day of October, 2014, personally appeared before me the above-named _____, an authorized signatory of Boston and Maine Corporation, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding instrument and acknowledged that he/she signed it voluntarily for its stated purpose as an authorized signatory of such entity and as the free act and deed of said entity.

Name:
Notary Public

IN WITNESS WHEREOF, the MBTA and PAR have executed this First Amendment to the 2011 Trackage Rights Agreement on the date above first written.

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

By: _____
Beverly A. Scott, Ph.D
General Manager and Rail & Transit Administrator

Date: _____

Approved as to Form:

By: _____
Paige Scott Reed
General Counsel, MassDOT and MBTA

Date: _____

PAN AM SOUTHERN

By: David A. Fink
Name: DAVID A. Fink
Title: President

COMMONWEALTH OF MASSACHUSETTS, COUNTY OF _____, SS.:

On this ____ day of October, 2014, personally appeared before me the above-named _____, an authorized signatory of the Massachusetts Bay Transportation Authority, proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding instrument and acknowledged that he/she signed it voluntarily for its stated purpose as an authorized signatory of such entity and as the free act and deed of said entity.

Name:
Notary Public
My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS, COUNTY OF Middlesex, SS.:

On this 31 day of October, 2014, personally appeared before me the above-named David A Fink, an authorized signatory of Pan Am Southern, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding instrument and acknowledged that he/she signed it voluntarily for its stated purpose as an authorized signatory of such entity and as the free act and deed of said entity.

Name: Pamela J Hitchcock
Notary Public
My Commission Expires:



EXHIBIT A

RAIL PROPERTY	FROM	TO	CATEGORY OF RAIL PROPERTY (SEE SECTION 2)
1. <u>Wachusett Station Service</u>	MBTA owned property West of Water Street overhead bridge in Fitchburg with an approximate mileage MBTA-MP-49.5 – PAS- MP-329.55 V.S. 36.1 - Map 49 – Eng Sta - 2619+12.46	PAS MP-336 in Westminster. (MBTA-B- 56) V.S. 40.1 – Map 7 – Eng Sta 2956+30.1	Level 1 Rail Properties
2. <u>Worcester Main Line Service</u>	Between the MBTA owned property at the railroad location known as CPF-AY (MBTA-MP- 36.07 PAS-MP-316.07) in Ayer at the approximate mileage via both the east (MBTA 35.9 PAS-315.9) and west legs of the Wye (MBTA- MP-36.22 – PAS-MP- 316.22 V.S. 6 – Map 29 – Eng. Sta. 1483+05	A railroad station location known as HARVARD at approximate mileage PAS / PAR mileage 25.70 in Harvard, MA where the railroad's main line continues on to Pan AM Railways owned and controlled Worcester Main Line. V.S. 6 – Map 26 – Eng. Sta. 1341+50	Level 1 Rail Properties Note: There is no designated or established alignment through the 'HILL YARD' in Ayer (Ayer Intermodal) – It would be necessary to establish an acceptable Route through the Yard – Example: HOLD POINT – (fence) + 15 feet to the first track THEN 13 foot track center THEN 15 feet to FAR HOLD POINT – TOTAL DISTANCE MIGHT BE 45 feet in width – TWO limiting locations impacting this alignment on EAST end of yard
3. <u>Stoney Brook</u>	CPF-WL (MBTA-MP- 33.72 – PAS-MP-313.77) V.S. 16 – Map 3 – Eng. Sta. 122+24.75	CP-F-312 (PAR / PAS MP-311.97) V.S. 16 Map 3 Eng. Sta. 226+30	Level 1 Rail Properties

CERTIFICATE OF SERVICE

I hereby certify that I have caused this Letter in Docket No. FD-36472, *CSX Corporation and CSX Transportation, Inc.—Control and Merger—Pan Am Systems, Inc., Pan Am Railways, Inc., Boston and Maine Corporation, Maine Central Railroad Company, Northern Railroad, Pan Am Southern LLC, Portland Terminal Company, Springfield Terminal Railway Company, Stony Brook Railroad Company, and Vermont & Massachusetts Railroad Company*, to be served electronically or by first class mail, postage pre-paid, on all parties of record in this proceeding.

/s/ Sally Mordi

Sally Mordi
*Attorney for CSX Corporation and
CSX Transportation, Inc.*

October 25, 2021