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RE: EX Parte-749

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



Thirty one years ago my husband and I was building our house next to an old abandoned railroad track. It's rails were torn up 35 years ago with the understanding that this spur was given to the railroad in past years to be able to ship their milk and cheese products from Wheelwright to Gilbertville where it met the main track which would continue on to Boston, MA ect and it was then given back to the abutting landowners. This is what the State ofb Massachusetts's Dept of transportation told us when we were building. They told us to build 45/48 feet from the center of the old rail trail. The area grew in and all was quiet until a Craig Della Penna (Central Highland Conservancy) from Florence MA came to the area. He claims he bought this spur and he sold it to the East Quabbin Landtrust. Later he learned his lessons by being beaten in Wesley, MA. The snow mobile club now keeps it cleaned up and along with the East Quabbin Landtrust tells the abutters who can and can't ride on this trail which goes nowhere except into backyards in Wheelwright, MA.

The irony of all this is the Land trust has made me sign a lease because we measured like the state told us to and now we are too close to the line. I had to sign that I would be a "friendly and good neighbor for the 1900 feet that borders my property.

I support anything that can be done to protect the abutting landowners. Trails have both positive and negative sides but I now have a trail 20 feet from my swimming pool. Kids screaming, loose dogs invading my yard and the list goes on and on. I call the landtrust and they tell me to call the police. The police say it's private property and the Landtrust should handle the complaints.

The following information is what I have researched and found through out the last decade.

I honestly feel this land doesn't legally belong to anybody but the abutters. Nobody can show

me this proof.

There is a lot of useless information here but there is a section that is highlighted and underlined that is the most important information

March 13, 1871 Phineas and Eliza Beaman conveyed ½ acre to the Ware River Railroad Company;

By deed recorded June 17, 1873 Book 904 Pg. 6

Early history of this local railroad:

Ware River Railroad **Company** was incorporated 1867 (Palmer to Gilbertville ROW) then went bankrupt

New London, Northern Railroad Company took over running it until 1873

Ware River Railroad (not the same railroad as above) became the new owners in 1873. This railroad continued the main line from Gilbertville to Winchendon and then they leased it for 999 years to

Albany & Boston railroad (known as B&A) and eventually the lease was taken over by

New York Central and Hudson River railroad company

The spur from Gilbertville to Wheelwright was added late 1800's to get the dairy products and paper mills products to Boston. This spur broke off this line that has been spoken of in the above history at the Gilbertville/ Old Furnace (both villages of Hardwick) and continued over the Ware River through New Braintree where there was a train station at the West/Hardwick Road junction and continued on through Wheelwright into South Barre. The hurricane of 1938 took out the rail from Wheelwright to S. Barre and was never repaired. This land is now owned by the Hiller/Tanner Airport (I believe it is in the process of being sold to a Chinese company) in New Braintree as part of their run way. It was a dead end ROW that a daily train ran to the mill in Wheelwright and back to the junction where it split from the main line to continue back towards Gilbertville, Ware and Palmer area until 1968 and late 70's the rails were torn up and the ROW grew in never to be used again by railroads.

Registry of Deed records show:

1968 B&A sold to Penn Central who abandoned South Barre to Waterville ROWS

B&A sold to B&M who took over Waterville to Winchendon. (no mention of this inactive spur)

April 1, 1976 Penn Central trustees conveyed all OPERATING ROWS to Conrail from Palmer to S.

Barre

April 28, 1982 Parcel 4 or #MA 000 08-3 (as what the parcel in question has become) had a Quitclaim deed from Grantor (assuming Penn Central's inactive ROWS) to the Commonwealth of Massachusetts.

March 21, 1989 Book 11956 pg. 171 Harder's deed states 1,515.24 ft. along B&M railroad land and 135.13 ft. along land now or formally owned by B&M railroad.

1994 Book 12247 pg.81 Penn Central Quitclaim to FREDAP Realty Trust **EXCEPT** the land that was Quitclaimed to the Commonwealth of Mass on April 28, 1982

1997 Book 18636 pg. 205 B&M Quitclaimed to Mass Central Railroad Corp. which is the same piece of land that had been quitclaimed in 1982 to the Commonwealth of Mass from Penn Central

Now for the Golden question that will decide if this land was legally sold to Mass Central RR; who sold it to the Central Highland Conservancy; and then to the East Quabbin Land Trust. As a land abutter I wasn't ever consulted on any of these Quitclaims.

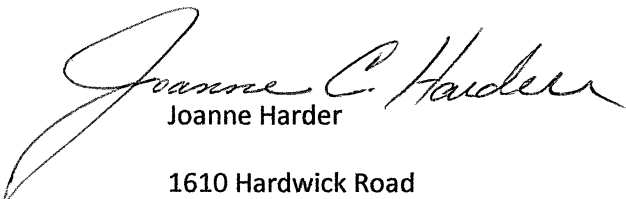
Was this land Penn Central's to quitclaim deed it to the Commonwealth of Mass in 1982 or was it B&M's land to Quitclaim it to Mass Central Railroad Corp. in 1997?

Taxes paid 2004, 2005 and 2006 by Mass Central Railroad Corp to New Braintree

March 18, 2005 Mass Central R.R. Corp's CFO Gary Hoepfner contacted the selectmen to purchase this ROW

Oct. 31, 2005 Book 37815 Pg. 282 Quitclaim Deed from Mass Central R.R. Corp signed off by CFO Gary Hoepfner to Craig Della Penna of the Central Highlands Conservancy, LLC of Florence MA.

March 15, 2011 A letter from the B&M archives in Lowell MA was received stating that Valuation Section 5 Sheets 59 and 60 dated 6-30-1914 showed that B&M R.R may still own this land. (But this same information showed up in the 1997 Quitclaim to Mass Central R.R.)



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