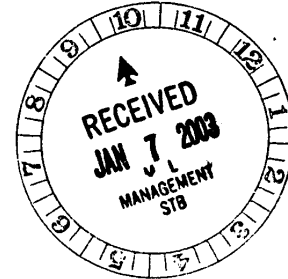


CRAIGHEAD GLICK LLP
COUNSELLORS AT LAW

277 DARTMOUTH STREET BOSTON MASSACHUSETTS 02116 PHONE 617.859.8200 FAX 617.859.7272
Leonard M. Singer

207066

January 5, 2003



BY FACSIMILE (202-565-9004) AND FEDERAL EXPRESS

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

Re: *Surface Transportation Board Docket No. AB 848 --
Maine Central Railroad Company -- Adverse Discontinuance of Service --
A Line of Maine Central Railroad Company known as the "Twin State Railroad" from
Whitefield, NH to St. Johnsbury, VT*

Dear Secretary Williams:

Enclosed for filing with your office are the original and ten (10) copies of the Response of the Twin State Railroad Corporation to the Petition for Waiver filed by the Maine Central Railroad Company in the above referenced matter.

Thank you for your kind assistance and cooperation in this matter.

Very truly yours,

Leonard M. Singer
Leonard M. Singer

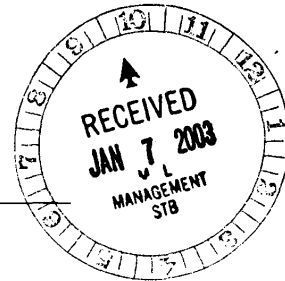
cc: Hon. Craig Benson
Hon. Howard Dean
Katherine E. Potter
Craig Donais
Christopher Morgan
Vermont Dept. of Public Service
Vermont Agency of Transportation
N.H. Public Utilities Commission

ENTERED
Office of Proceedings

JAN 07 2003

Part of
Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD
Washington, DC



DOCKET NO. AB 848

207006

MAINE CENTRAL RAILROAD COMPANY
-- ADVERSE DISCONTINUANCE --
A LINE OF MAINE CENTRAL RAILROAD COMPANY KNOWN
AS THE "TWIN STATE RAILROAD"
FROM WHITEFIELD, NH TO ST. JOHNSBURY, VT

RESPONSE OF
TWIN STATE RAILROAD CORPORATION
TO PETITION FOR WAIVER

ENTERED
Office of Proceedings

JAN 07 2003

Part of
Public Record

Leonard M. Singer
Craighead, Glick, LLP
277 Dartmouth Street
Boston, MA 02116
(617) 859-8200

Attorney for the Twin
State Railroad Corporation

Dated: January 5, 2003

BEFORE THE
SURFACE TRANSPORTATION BOARD
Washington, DC

DOCKET NO. AB 848

MAINE CENTRAL RAILROAD COMPANY
-- ADVERSE DISCONTINUANCE --
A LINE OF MAINE CENTRAL RAILROAD COMPANY KNOWN
AS THE "TWIN STATE RAILROAD"
FROM WHITEFIELD, NH TO ST. JOHNSBURY, VT

**RESPONSE OF
TWIN STATE RAILROAD CORPORATION
TO PETITION FOR WAIVER**

A. INTRODUCTION

The Maine Central Railroad Company ("MEC") filed an amended Petition for Waiver in this proceeding which was received by the Surface Transportation Board ("STB") on December 17, 2002.

By its Petition for Waiver, MEC has indicated it "seeks waiver of certain requirements of the STB's abandonment regulations for an adverse discontinuance application MEC intends to file in this proceeding." (Petition for Waiver, p. 1.) MEC alleges that waiver of such requirements is permitted by 49 C.F.R. § 1152.24(e)(5), and argues that "[t]hese requirements are inapplicable or irrelevant in an adverse discontinuance context" (Petition for Waiver, p. 1.).

As the true facts in this matter will indicate, the motivations of MEC in this matter are not public convenience and necessity. Rather, the dispute between MEC and TSRR involves exclusively private contractual rights between the parties pursuant to TSRR's

long-term leasehold interest in the subject railroad line.

For these reasons and as described herein, TSRR opposes MEC's Petition for Waiver in this matter. Furthermore, should MEC file an adverse discontinuance application, TSRR intends to oppose that filing as well. Public convenience and necessity would not be served by either the granting of MEC's Petition for Waiver or the granting of the threatened adverse discontinuance application. Rather, the granting of either request would serve only to devalue TSRR's substantial investment in the subject line, and vitiate its long-term leasehold rights therein.

B. BACKGROUND

Notwithstanding the limited nature of the waiver issue now before the STB in this matter, the history of the TSRR Line may be useful to the STB as it considers the MEC Petition.

1. Establishment of TSRR

The railroad line which is the subject of this proceeding (the "Line" or the "TSRR Line") extends approximately 28.15 miles between St. Johnsbury, Vermont and Whitefield, New Hampshire. A related line of railroad operated by the Lamoille Valley Railroad Company ("LVRC") extends approximately 98 miles between Swanton, Vermont and St. Johnsbury, Vermont (the "LVRC Line"). The TSRR Line and the LVRC Line connect at St. Johnsbury, and thus comprise a continuous corridor from Swanton, Vermont to Whitefield, New Hampshire.

For convenience in understanding the history of the subject Line and its recent operations, TSRR directs the STB to Finance Docket No. 29772, Guilford Transportation Industries, Inc. -- Control -- Boston and Maine Corporation (Decision served May 22,

1984), pursuant to which common control of LVRC and TSRR by the Northern Vermont Company ("NVC") was exempted from approval by the ICC.

TSRR also directs the STB to Finance Docket No. 31545, Clyde S. and Sandra Forbes and CSF Acquisition, Inc. -- Acquisition of Control -- Northern Vermont Company (Decision served _____, 1989). As indicated in Finance Docket No. 31545, CSF Acquisition, Inc. ("CSF," whose principal shareholder is Clyde S. Fobes, a veteran operator of Class II and Class III carriers) owns 100% of the capital stock of NVC. NVC, in turn, owns 100% of the capital stock of the LVRC and has operated the LVRC Line pursuant to lease and operating agreements with the State of Vermont since 1989. NVC also owns 100% of the capital stock of TSRR, which, since 1984, has operated the TSRR Line pursuant to a long-term lease agreement with MEC. As indicated in the 1989 Petition for Exemption in that Finance Docket:

The LVRC is a shortline railroad which has experienced financial difficulties described at length in the record before the Commission in Guilford Transportation Industries, Inc. -- Control -- Boston and Maine Corporation, 366 I.C.C. 292-372 (December 3, 1982) ("Guilford merger case"). Prior to the mid 1970's it was a bridge carrier owned by the Samuel Pinsly family and operated under the name St. Johnsbury & Lamoille County Railroad Company ("SJ&LC"). After SJ&LC experienced financial difficulties, Pinsly sought and received abandonment authority. The State of Vermont acquired the [LVRC Line] post abandonment and leased it to a succession of shortline operators prior to LVRC's establishment in 1978 as a shipper-owned railroad. After a short period of subsidized operation immediately after startup, the LVRC became marginally profitable due to aggressive marketing as a bridge route. The LVRC experienced financial problems again in the early to mid 1980s due to loss of overhead traffic, which LVRC believes was diverted to competing B&M and MEC routes and deregulation of the railroad industry.

Anticipating the adverse affects of Guilford's control of B&M and MEC LVRC traffic and revenue base, the LVRC challenged that transaction before the Commission and in federal court. In settlement of that

litigation, MEC in 1984 transferred to the NVC and LVRC a profitable branch between St. Johnsbury, VT and Whitefield, NH. NVC established TSRR as a new railroad corporation for the purpose of operating this [TSRR Line]. The TSRR has been marginally successful.

In short, the operational and financial difficulties experienced by the LVRC and the TSRR, and their respective Lines, are directly related to the consolidation of the B&M and MEC under Guilford Transportation Industries, Inc. As acknowledged by the Guilford merger case, common ownership and operation of the LVRC and TSRR are recognized to be in the public interest.

The Guilford entities are now effectively seeking to use the very circumstances they created in order to undermine TSRR's leasehold and operating rights, and to violate the 1984 settlement to which they agreed in the Guilford merger case (the "1984 Settlement").

2. MEC and TSRR Lease and Operating Agreement

As required by the 1984 Settlement, MEC entered into a Lease and Operating Agreement with TSRR dated as of March 1, 1984 (the "TSRR Lease"). A copy of the TSRR Lease is attached hereto as Exhibit A.

Reflecting the merits of the challenges raised by LVRC in the Guilford merger cases, the TSRR Lease provides for a long-term lease by TSRR of the TSRR Line. Section VIII of the TSRR Lease provides for an initial term that ran from March 1, 1984 through December 31, 1988, and provides TSRR with the right to renew the term for up to a maximum of additional four (4) ten-year periods. Accordingly, the total term of the TSRR Lease is 44 years and ten (10) months, with approximately 26 years remaining in that term.

In its Petition for Waiver, MEC acknowledges that "TSRR retained the option to renew the [TSRR Lease] upon its expiration on December 31, 1988." MEC then asserts that "TSRR did not exercise that option and have been operating under an expired lease since the expiration of the Agreement." (Petition for Waiver, p. 2.) MEC's assertion is utter nonsense. MEC has repeatedly acknowledged the existence of the TSRR Lease, including at the time of the 1989 Finance Docket No. 31545, and at numerous occasions since. The current ten (10) year period of the TSRR Lease commenced on January 1, 1999, and ends on December 31, 2008. TSRR has signed certified mail receipts from MEC and others acknowledging their receipt of its Notice of Renewal with respect to the current ten (10) year period. Furthermore, the TSRR Lease may be further extended by TSRR for two (2) additional ten (10) year terms, through December 31, 2028.

In its operations, maintenance, administration and insurance of the Line, TSRR has made substantial investment in the TSRR Line. Furthermore, as provided in Section 1.01 of the Lease, TSRR made a substantial one-time, up-front lease payment of \$200,000. That substantial investment by TSRR would be lost were the STB to permit or facilitate the threatened adverse discontinuance in this matter.

3. TSRR Has Met and Continues to Meet its Common Carrier and Leasehold Obligations on the TSRR Line

TSRR has performed its operations on the TSRR Line as warranted by changing traffic levels as required by the TSRR Lease. Since CSF assumed ownership of the TSRR, the TSRR Line has had only one actual or prospective customer, the paper mill at Gilman, Vermont. And the mill at Gilman has struggled over the years. In 1989, the mill was owned by Georgia Pacific, then sold to Simpson Paper Company in the early 1990s.

Traffic levels on the line during this period were in the vicinity of only 800 carloads per year. Simpson Paper closed the mill in October 1999. At some later date, the mill was sold to American Tissue Company (aka, The Paper Mill at Gilman, Inc.). No request for rail service on the TSRR Line has been made by the mill since the October 1999 closure. If MEC is aware of any potential traffic on the TSRR Line, MEC has failed to share that information with the TSRR.

C. REQUEST FOR WAIVER BY MEC

MEC's actions in this matter represent a patent attempt to violate the terms of the 1984 Settlement in the Guilford merger cases and to interfere with TSRR's long-term leasehold rights in the TSRR Line. The STB should not facilitate MEC's conduct in this matter by permitting any exemption of its abandonment regulations and procedures.

In particular, MEC should not be exempted from meeting the requirements of the following regulations.¹ As explained in the following material, the information required by the regulations is applicable and is relevant to the issues that will be presented by MEC's adverse discontinuance proceeding.

49 C.F.R. §§ 1152.22 (c)

This subparagraph requires that an applicant submit information concerning the service provided on the line including the "reasons for the decline in traffic . . . in the best judgment of the applicant." In its Petition for Waiver MEC alleges that TSRR has made "no effort to solicit traffic or reinstitute rail service." Petition for Waiver p. 2.

¹ TSRR does not understand MEC to be seeking an exemption from 49 CFR 1152.22(a) other than from subparagraph (5) thereof. It does not understand MEC to be seeking any exemption from 49 CFR 1152.22(b).

Significantly, Section IV of the TSRR Lease provides that "MEC shall have and retain the *exclusive* right to deal directly with shippers and receivers regarding traffic moving to or from the Line and to solicit such traffic in the best interest of MEC and the [Guilford system]." (Emphasis added.)

In other words, in the petition for adverse abandonment which MEC says that it will file, it will argue that the decline in traffic on the TSRR Line is the fault of TSRR. However, the TSRR Lease strongly suggests that MEC bears substantial responsibility for any decline in traffic. MEC should not be permitted to finesse the issue of what happened to the traffic on the Line and why.² Contrary to MEC's assertion, information regarding the trend in revenue on the Line is highly relevant and material. MEC should not be permitted to avoid its obligation under the regulations to provide that information.

49 C.F.R. §§ 1152.22 (d)

This subparagraph requires that an applicant submit information concerning revenue and cost data, including future revenues and costs. In its Petition for Waiver MEC discloses that the purpose of its promised petition for adverse discontinuance is so that "a new operator . . . will re-create a viable freight rail service option in this area." Petition for Waiver p. 3. If the STB is to be asked to permit an adverse discontinuance so that a viable freight rail service option may be established, clearly the projected revenues and costs of that freight rail service option are relevant.

² If MEC is aware of any potential new traffic on the TSRR Line at this time, they have failed to share that information with TSRR.

For similar reasons MEC's calculation of cost is highly relevant. In its Petition for Waiver MEC asserts that TSRR has not "performed any recognizable track maintenance for several years."³ However, the TSRR Lease requires TSRR to maintain and operate the Line only up to levels that are concordant with the changing traffic demands on the Line. Section 2.02 of the TSRR Lease provides that "TSRR shall operate the Line and shall provide train service which shall be equal in all respects, including frequency, reliability and speed, to the service presently provided on the Line by MEC *or such other manner of service as may be warranted by traffic levels and operating conditions as they may exist from time to time.*" (Emphasis added.) Section 2.06 of the TSRR Lease provides that "TSRR shall, at its own expense, maintain the Line in good condition and repair so that freight train operations can be conducted on the Line *as warranted by traffic levels . . .*" (Emphasis added.) Section 1.03 of the TSRR Lease underscores this maintenance standard by permitting TSRR to retire portions of the TSRR Line "which may no longer be required for the performance of the duties of TSRR under this Agreement, and MEC shall not unreasonably withhold approval of such requests." TSRR may also retain the proceeds from any such retirements.

Manifestly, MEC's estimate about past and future costs of operating the Line are highly relevant in view of its intention to assert that TSRR has not adequately maintained the Line.

³ Any assertion by MEC that TSRR is in breach out the TSRR Lease should be viewed with great suspicion. Section 5.02 of the TSRR Lease requires MEC to provide TSRR with specific written notice of any alleged default by TSRR under the Lease. In the event of any such notice of default, TSRR would have the opportunity to cure any such default. MEC has never provided any such notice of default to TSRR.

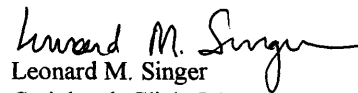
D. CONCLUSION

The actions by MEC in this matter are a transparent attempt to violate the 1984 Settlement and to interfere with TSRR's long-term leasehold interest in the TSRR Line. MEC is doing so, not because TSRR has failed to meet its common carrier obligations or its leasehold obligations, but solely in an attempt to push TSRR off the Line and thereby deprive TSRR of the leasehold value of the Line. This matter is purely a private contractual dispute between the parties, which is not properly resolvable by the STB.

No shipper currently exists on the TSRR Line. TSRR, however, continues to maintain the TSRR Line in accordance with its leasehold and other obligations. Should traffic conditions change, and should service be required on the Line in the future, the TSRR is prepared to respond to those requests for service.

In light of the circumstances described above, TSRR respectfully submits that the STB's regulations should not be waived in this matter. TSRR respectfully requests that MEC's Petition for Waiver be rejected in its entirety, or in such parts as the STB deems appropriate.

Respectfully submitted,



Leonard M. Singer
Craighead, Glick, LLP
277 Dartmouth Street
Boston, MA 02116
(617) 859-8200

Attorney for the Twin
State Railroad Corporation

Dated: January 5, 2003

CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing Response of Twin State Railroad Corporation to the Petition for Waiver filed by the Maine Central Railroad Company, in the above referenced matter, to be served by first class mail, postage prepaid, United States mail, on the following:

Katherine E. Potter
Maine Central Railroad Company
Iron Horse Park
North Billerica, MA 01862

Craig Donais
Assistant Attorney General
Office of N.H. Attorney General
33 Capitol Street
Concord, MA 03301-6397

Vermont Agency of Transportation
One National Life Drive, Drawer 33
Montpelier, VT 05633-0001

Vermont Dept. of Public Service
112 State Street, Drawer 22
Montpelier, VT 05620-2601

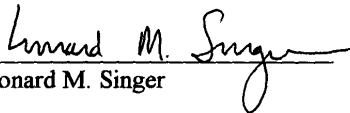
Hon. Craig Benson
Governor
State of New Hampshire
Office of the Governor
State House, Room 208-214
Concord, NH 03301-4990

N.H. Public Utilities Commission
8 Old Suncook Road
Concord, NH 03301

Christopher Morgan
Bureau of Rail and Transit
N.H. Department of Transportation
P.O. Box 483
Concord, NH 03302-0483

Hon. Howard Dean
Governor
State of Vermont
109 State Street, Pavilion
Montpelier, VT 05609-0101

Dated at Boston, Massachusetts this 5th day of January, 2003.


Leonard M. Singer

LEASE AND OPERATING AGREEMENT

THIS LEASE AND OPERATING AGREEMENT ("Agreement")
dated as of the 1st day of March, 1984, by and
among MAINE CENTRAL RAILROAD COMPANY, a Maine corporation
("MEC"), TWIN STATE RAILROAD CORPORATION, a Vermont corporation
("TSR"), and LAMOILLE VALLEY RAILROAD COMPANY, a Vermont
corporation ("LVRC").

WITNESSETH:

WHEREAS, MEC, LVRC, the State of Vermont ("Vermont")
and Guilford Transportation Industries, Inc. ("Guilford"), the
owner of all of the outstanding common stock of MEC, have
executed and delivered a Settlement Agreement dated as of
November 1, 1983 (the "Settlement Agreement"), pursuant to
which they have agreed to resolve, as of the Effective Date (as
defined below), certain disputes arising in connection with the
acquisition by Guilford of control of Boston and Maine
Corporation ("B&M"); and

WHEREAS, the Settlement Agreement provides that MEC
and LVRC will enter into an agreement for the operation of the
line of railroad of MEC from Whitefield, New Hampshire to St.
Johnsbury, Vermont by LVRC; and

WHEREAS, TSR has been organized as a wholly-owned subsidiary of Northern Vermont Corporation, which is also the owner of all of the outstanding stock of LVRC, to operate the Line (as defined below) as the designee of LVRC;

NOW, THEREFORE, the parties hereto, in consideration of the mutual promises and covenants set forth herein and intending to be legally bound, hereby agree as follows:

I. GRANT OF AUTHORITY

1.01 In consideration of the payment, as of the Effective Date, of the sum of \$200,000 by TSR to MEC, MEC hereby leases and grants to TSR the right to use and operate, during the term of this Agreement and subject to the provisions of this Agreement and to the limitations set forth in Sections V and VI below, the line of railroad of MEC between the east MEC yard limit sign at approximately Mile Post P 103, Whitefield, New Hampshire and the west end of the MEC main track at approximately Mile Post 131.15, St. Johnsbury, Vermont, except a parcel of real property consisting of approximately 9.2 acres at South Lunenburg, Vermont, situated northerly of a line approximately 900 feet long lying 50 feet northerly of and parallel to the monumented baseline of MEC between the Connecticut River and Lunenburg State Aid Highway

No. 1. TSR shall have the right to use and operate the line of railroad and all appurtenant facilities, including tracks, bridges, culverts, signals, fences and buildings, which are used in connection with the operation of the line, all of which shall be referred to in this Agreement as the "Line".

1.02 MEC hereby assigns to TSR all leases, sidetrack agreements, licenses, private crossing agreements and other such agreements in connection with or relating to the Line listed in Appendix A attached hereto. TSR shall have the right on its own behalf to enter into such additional leases, sidetrack agreements, licenses, private crossing agreements or other such agreements in connection with or relating to the Line, subject, however, to the prior written consent of the Chief Engineer of MEC, which consent shall not be unreasonably withheld, and to collect and receive for its own account any rents or payments with respect to all such agreements. TSR shall have the right and responsibility to enter into agreements with states, municipalities or administrative agencies relating to highway grade crossings, highway bridges or grade crossing protection on the Line, subject, however, to the prior written consent of the Chief Engineer of MEC, which consent shall not be unreasonably withheld. MEC shall have and retain the exclusive right, and TSR shall be precluded from

claiming or exercising any right, to enter into agreements, so long as any such agreements do not adversely affect the operation of the Line, to convey the fee interest in any real property constituting part of the Line, to grant an easement affecting the Line or to resolve any taking by eminent domain affecting the Line. Upon termination of this Agreement, TSR shall assign or reassign to MEC all leases, sidetrack agreements, licenses, private crossing agreements and other such agreements in connection with or relating to the Line.

1.03 TSR may request MEC to retire any property on, or portion of, the Line which may no longer be required for the performance of the duties of TSR under this Agreement, and MEC shall not unreasonably withhold approval of such requests. TSR may retain for its own account any property recovered or proceeds received incidental to any such retirement, but retirement accounting shall be performed by MEC.

II. COVENANTS OF LVRC

TSR hereby covenants and agrees as follows:

2.01 As of the Effective Date, TSR shall pay to MEC the sum of \$200,000.

2.02 During the term of this Agreement, TSR shall operate the Line and shall provide train service which will be equal in all respects, including frequency, reliability and speed, to the service presently provided on the Line by MEC or such other manner of service as may be warranted by traffic levels and operating conditions as they may exist from time to time. TSR acknowledges that presently MEC provides service upon the demand of customers six days per week. TSR shall provide all locomotives, personnel and any other equipment (except that cars for loading shall be provided as stated in Section IV below) necessary in order to provide such service.

2.03 TSR shall offer to employ one MEC employee presently assigned to maintenance-of-way duties on the Line.

2.04 TSR shall assume and bear all costs related to its operation of the Line.

2.05 TSR shall file any returns or reports required by Vermont or New Hampshire in respect of franchise, corporate or income taxes and shall pay any taxes assessed on the basis of the earnings or income of, or operation of the Line by, TSR. TSR shall pay (i) 37.5% of the Vermont property and franchise tax, 32 Vermont Statutes Annotated, Chapter 211, §§ 8211-8286, as it or a similar tax law based on the value of

property used for railroad operations may be in effect from time to time, assessed in respect of that portion of the Line which is located in Vermont and (ii) 37.5% of the New Hampshire railroad and public utility tax, 1-A New Hampshire Statutes Annotated, Chapter 82, §§ 1-38, as it or a similar tax law based on the value of property used for railroad operations may be in effect from time to time, assessed in respect of that portion of the Line which is located in New Hampshire, whether any such taxes are assessed against TSR or MEC or both. Except for property taxes to be paid by MEC pursuant to Section 3.02 below and except as provided in the preceding sentence, TSR shall pay any other property taxes assessed on the Line.

2.06 TSR shall, at its own expense, maintain the Line in good condition and repair so that freight train operations can be conducted on the Line as warranted by traffic levels in a safe, efficient and economical manner and in compliance with all federal and state laws and regulations. Any property or materials used by TSR to replace or repair any property or materials in the Line shall be of equal or better quality compared to the property or materials so replaced or repaired.

2.07 TSR shall indemnify and save MEC, its parent and its officers, agents and employees harmless from and

against all liabilities, claims, charges, costs and expenses of whatever nature arising from or in connection with the use, operation or maintenance of the Line by TSR.

2.08 TSR shall, at all times during the term of this Agreement, maintain, from insurers approved by MEC, which approval shall not be unreasonably withheld, the following types and amounts of insurance coverage:

(a) insurance against loss or damage to property, including without limitation property of MEC, cargo and rolling stock, and against injury or death to persons, including without limitation employees of MEC, arising or incurred in connection with the operation, use or maintenance of the Line, in minimum amounts of (i) \$1,000,000 for injury or death of any person and \$2,000,000 for injury or death arising out of any occurrence and (ii) \$1,000,000 for any loss of or damage to property and \$2,000,000 for loss or damage arising out of any occurrence, in each case subject to a deductible not in excess of \$25,000; and

(b) insurance against loss or damage by fire and against loss or damage by other risks now or hereafter embraced by the terms "extended coverage" and "vandalism and malicious mischief" to any bridges located on the Line in an amount of \$1,000,000 for any occurrence, subject to a deductible not in excess of \$25,000.

TSR shall maintain the insurance described in subsection 2.08(a) above at its sole expense and shall pay 37.5% of the cost of the insurance described in subsection 2.08(b) above.

III. COVENANTS OF MEC

MEC hereby covenants and agrees as follows:

3.01 MEC shall pay TSR \$300 for each loaded car (but not including any MEC company material cars or MEC non-revenue equipment) handled by TSR on the Line. On January 1, 1985, and on January 1 of each succeeding year this Agreement is in force and effect, the amount paid by MEC to TSR for each loaded car so handled by TSR shall be increased or decreased, as the case may be, by multiplying \$300 by a fraction, the numerator of which shall be the "Labor, Fuel and Materials and Supplies Combined" portion of the Railroad Cost Recovery Index of the Association of American Railroads and the denominator of which

shall be such Index as of January 1, 1984. If the Association of American Railroads ceases publication of such Index, the parties hereto shall utilize such other index, for the purpose of adjusting the payment for each loaded car, that fairly reflects the increased or decreased costs of labor, fuel and materials and supplies incurred in operating railroads in the United States. No payment shall be due from MEC to TSR for the handling by TSR of empty cars which are loaded or made empty on the Line. TSR shall bill MEC after the conclusion of each month. Such bills shall show the car number and the date or dates of handling for each loaded car for which payment is requested. Within 15 business days after the receipt of any such bill, MEC shall make the payment due TSR.

3.02 MEC shall file any returns or reports required by Vermont or New Hampshire in respect of franchise, corporate or income taxes and shall pay any taxes assessed on the basis of the income or earnings of MEC in respect of the Line. MEC shall pay (i) 62.5% of the Vermont property and franchise tax, 32 Vermont Statutes Annotated, Chapter 211, §§8211-8286, as it or a similar tax law based on the value of property used for railroad operations may be in effect from time to time, assessed in respect of that portion of the Line which is located in Vermont and (ii) 62.5% of the New Hampshire railroad

and public utility tax, 1-A New Hampshire States Annotated, Chapter 82, §§1-38, as it or a similar tax law based on the value of property used for railroad operations may be in effect from time to time, assessed in respect of that portion of the Line which is located in New Hampshire, whether any such taxes are assessed against MEC or TSR or both. MEC shall pay property taxes assessed on the parcel of real property described in Section 1.01 above as not being subject to this Agreement.

3.03 MEC shall pay 62.5% of the cost of the insurance described in subsection 2.08(b) above.

IV. OPERATION AND TRAFFIC

4.01 TSR shall handle cars on the Line for the account of MEC. MEC shall have and retain the exclusive right to deal directly with shippers and receivers regarding traffic moving to or from the Line and to solicit such traffic in the best interests of MEC and the railroad system owned by Guilford (hereinafter referred to as the "Guilford system"). MEC shall provide all station agency functions related to the operation of the Line and shall furnish TSR such information as may be necessary for TSR to provide service to customers on the Line. MEC shall provide TSR with instructions concerning delivery

locations for traffic moving to or from the Line, and TSR shall comply with such instructions. TSR shall furnish MEC weekly with copies of each daily "Conductor's Train Report" completed with information relating to cars handled on the Line during each week. MEC shall have the right, at reasonable times, to review and obtain copies of any records of TSR or LVRC relating to traffic handled by TSR on the Line.

4.02 TSR shall first use Guilford system cars supplied to TSR for loading for any shippers located on the Line. To the extent that Guilford system cars are not so available, TSR may provide TSR or LVRC cars for loading. In the event that neither Guilford system cars nor TSR or LVRC cars are available, TSR shall use cars supplied to it by any Guilford system railroad.

4.03 TSR shall operate the Line under its own rules, except that TSR shall incorporate into its operating instructions MEC Time Table Special Instructions as they may be pertinent to operations of the Line, including MEC Time Table No. 2, dated April 11, 1982, pages 2 through 7 under Sections (Rules) 33a, 33b, 93, 98, 110 and 695.

V. DEFAULTS BY LVRC AND REMEDIES OF MEC

5.01 The following events or occurrences shall constitute defaults by TSR under this Agreement:

(a) the failure or inability of TSR to provide service on the Line, except when such failure or inability is caused by an event or occurrence such as an act of God, vandalism, strike, or order of a court or other governmental authority which (i) is not attributable, directly or indirectly, to any act or failure to act by TSR and (ii) cannot be cured by TSR without unreasonable delay or expense;

(b) the failure to maintain the Line in accordance with the standard established in Section 2.06 above;

(c) the failure to pay any of the costs and expenses to be paid by LVRC pursuant to Section 2.04 or Section 2.05 above; or

(d) the failure to comply with or to perform any other covenant or agreement undertaken by TSR pursuant to this Agreement.

5.02 In the event that MEC gives TSR and LVRC written notice of the occurrence of any default under this Agreement and TSR or LVRC, pursuant to Section XII below, does not cure any such default within 30 days after such notice, then MEC may, by further written notice to TSR and LVRC, with a copy to Vermont, terminate the rights and obligations of TSR and LVRC under this Agreement.

5.03 Notwithstanding any other provision of this Agreement, in the event that TSR fails to provide service in the manner required by Section 2.02 above, MEC may, at its option, provide service on the Line itself or through a carrier designated by MEC.

VI. SUBSTITUTION OF OPERATOR

6.01 The rights and obligations of TSR and LVRC under this Agreement shall terminate, but the Agreement shall remain in full force and effect, upon the occurrence of either of the following two events:

(a) provision of notice by MEC to TSR and LVRC of a default, as provided in Section 5.02 above, which TSR or LVRC has failed to cure within 30 days after notice of such default; or

(b) provision of notice by Vermont to MEC and LVRC to the effect that LVRC is in default under its lease with Vermont concerning the operation of the line of railroad between Swanton, Vermont and St. Johnsbury, Vermont or to the effect that LVRC has failed to renew such lease.

In either event, Vermont may, by notice to MEC and to TSR and LVRC, designate a new operator of the Line in place of TSR.

6.02 Subject to the approval of Guilford and the approval of or exemption by any regulatory agency which may have jurisdiction over such matters, any new operator so designated by Vermont shall assume all of the rights and obligations of TSR, except the rights set forth in Section VII below, under this Agreement.

VII. TERMINATION BY TSR

TSR may, at its option, terminate this Agreement (i) for any reason within two years after the Effective Date or (ii) if it handles less than 1,100 carloads on the Line in any calendar year during the period beginning on the second anniversary of the Effective Date and ending on December 31, 1988. If TSR so terminates this Agreement, or if the Agreement

terminates pursuant to the last sentence of Section VIII below, MEC shall pay TSR the sum of \$200,000; provided, however, that MEC shall have no obligation to pay any amount to TSR if the rights and obligations of TSR are terminated pursuant to Section VI above.

VIII. TERM

The initial term of this Agreement shall be from the Effective Date through December 31, 1988. At its option, TSR may renew this Agreement for a maximum of four 10-year periods subsequent to December 31, 1988. Notwithstanding any other provision of this Agreement, it shall terminate and be of no further force and effect as of June 30, 1984, unless such date is extended by MEC, in the event that Vermont has not provided assurances satisfactory to MEC by such date to the effect that Vermont has obtained the authority necessary to fulfill the obligations assumed by Vermont with respect to certain public structures and grade crossings in Vermont pursuant to paragraph 5 of the Settlement Agreement.

IX. NOTICES

All notices, requests and demands to or upon the parties hereto shall be deemed to have been given or made when deposited in the United States mails, postage prepaid, addressed as follows:

To:

Twin State Railroad Corporation
Stafford Avenue
Morrisville, Vermont 05661

with a copy to:

Robert A. Gensburg, Esq.
Gensburg & Axelrod
101 Eastern Avenue
P.O. Box 189
St. Johnsbury, Vermont 05819

To:

Lamoille Valley Railroad Company
Stafford Avenue
Morrisville, Vermont 05661

with a copy to:

Robert A. Gensburg, Esq.
Gensburg & Axelrod
101 Eastern Avenue
P. O. Box 189
St. Johnsbury, Vermont 05819

To:

Maine Central Railroad Company
242 St. John Street
Portland, Maine 04102

with copies to:

James E. Howard, Esq.
Kirkpatrick, Lockhart, Johnson & Hutchison
1500 Oliver Building
Pittsburgh, Pennsylvania 15222

and

Guilford Transportation Industries, Inc.
171 Orange Street
New Haven, Connecticut 06510

X. NO WAIVER; CUMULATIVE REMEDIES

No failure to exercise, and no delay in exercising on the part of any party of, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power, or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies of the parties hereunder are cumulative and not exclusive of any rights or remedies provided by law, and all such rights and remedies may be exercised singly or concurrently.

XI. ASSIGNMENT

This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto. TSR shall not assign this Agreement or any portion hereof except upon the prior, written consent of MEC.

XII. GUARANTY BY LVRC

LVRC hereby (i) guaranties the performance by TSR of its duties, covenants and obligations under this Agreement and (ii) if TSR fails to perform such duties or obligations or to fulfill such covenants or if there is a default by TSR

hereunder, consents to the enforcement by MEC against LVRC of any such duties, covenants and obligations and to the exercise of any rights, powers, remedies or privileges available hereunder or at law.

XIII. EFFECTIVE DATE

This Agreement shall become effective (the "Effective Date") only upon the occurrence of both of the following conditions precedent:

(a) the litigation by LVRC, Vermont and Eastern Magnesia Talc Company relating to the acquisition of B&M, including the matter relating to LVRC remanded to the Interstate Commerce Commission ("ICC") pursuant to Lamoille Valley Railroad Co. v. ICC, 711 F.2d 295 (D.C. Cir. 1983), shall have been terminated and dismissed with prejudice by the ICC and any courts having jurisdiction over such matters; and

(b) this Agreement, the Settlement Agreement and any transactions contemplated hereby or thereby shall have received such approvals, if any, as may be required by the ICC, Vermont or New Hampshire or

shall have been exempted from approvals, in each case by orders which have become final.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and delivered on the day and year first above written.

Attest:

Attest: [Signature]

MAINE CENTRAL RAILROAD COMPANY

By *John F. Smith*

Attest:

Attest: [Signature]

LAMOILLE VALLEY RAILROAD COMPANY

By *Robert A. Gensburg*
Robert A. Gensburg
President

and
By *Edward A. Lewis*
Edward A. Lewis
General Manager

Attest:

Attest: [Signature]

TWIN STATE RAILROAD
CORPORATION

By *Robert A. Gensburg*

AGREEMENTS - WHITEFIELD, N.H. TO ST. JOHNSBURY, VT.

<u>Name</u>	<u>Description</u>	<u>Agreement Date</u>	<u>Annual Rent</u>
<u>Whitefield, N.H.</u>			
Hennessey, Herbert	Land Lease	5/17/65	10.00
Hutchins, Roger W.	" "	12/10/79	45.00
McIntyre, Douglas	" "	5/ 1/60	10.00
Stiles, Robert	" "	5/ 1/70	108.00
Way, Ralph A.	" "	8/ 5/76	25.00
New England Tel & Tel Co.	Wires	12/ 1/46	15.00
New England Tel & Tel Co.	U.G.Cable	12/20/61	38.00
New England Tel & Tel Co.	Aerial Cable	12/10/71	-
Public Service Co. of N.H.	115 KV Line	5/27/68	65.00
Bray, E. C.	Water Pipe	10/20/28	-
Town of Whitefield	Sewer	8/16/95	-
Town of Whitefield	Sewer	7/25/06	-
Town of Whitefield	Sewer	6/16/23	-
Town of Whitefield	Sewer	9/ 5/30	-
Town of Whitefield	Sewer	5/ 6/32	-
Whitefield Mfg. Co.	Water Pipe	6/25/12	-
<u>Dalton/Scotts, N.B.</u>			
White, C. N.	Post Brook	4/28/10	-
New England Tel & Tel Co.	Wires	12/ 1/46	15.00
New England Tel & Tel Co.	Cables	4/18/73	-
New England Tel & Tel Co.	Wires	5/22/74	25.00
New England Tel & Tel Co.	Cables	9/ 1/75	-
New England Tel & Tel Co.	Wires	9/15/75	25.00
Public Service Co. of N.H.	110,000 Volt Line	3/ 8/48	65.00
Public Service Co. of N.H.	33 KV Line	8/25/53	40.00
Public Service Co. of N.H.	115 KV Line	9/25/58	65.00
Public Service Co. of N.H.	7200 Volt Line	12/ 1/75	50.00
Twinstare Gas & Elect. Co.	Wires	10/ 6/23	Decree
Morin, George	Water Pipe	10/23/29	-
Cloutier, Leon	Pipe	9/13/26	-
Brooks, George	Temp.Crossing	9/20/73	-
Dorsey, B. S.	Temp.Crossing	4/ 9/81	95.00
White, R. R.	Temp.Crossing	6/ 9/81	95.00
<u>Lunenburg, VT.</u>			
New England Tel & Tel Co.	Wires	8/11/47	45.00
New England Power Co.	Trans. Line	1/21/55	5.00
Central Vt. Public Service	Wires	7/ 1/63	5.00
Smith, O. R.	Sewer	8/28/23	-

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<u>Name</u>	<u>Description</u>	<u>Agreement Date</u>	<u>Annual Rent</u>
<u>Gilman, VT.</u>			
Georgia Pacific Corp.	Yard Tracks	1/16/78	Ind.Owned
Georgia Pacific Corp.	8" Water Pipe	8/ 8/22	-
Georgia Pacific Corp.	8" Sewer	7/ 8/24	-
Georgia Pacific Corp.	Steam & Wtr.Pipes	5/22/36	-
Georgia Pacific Corp.	Wtr.& Sewer Pipes	11/25/47	-
Georgia Pacific Corp.	Hopper & Conveyors	11/25/47	-
Georgia Pacific Corp.	Private Crossings	4/20/78	-
Bernard, P.	Water	10/27/23	-
<u>East Concord, VT.</u>			
Ranney, S. C.	1/2" Water Pipe	7/12/16	-
<u>Miles Pond, VT.</u>			
Caldbeck-Cosgrove Corp.	Water Pipe	9/22/22	-
State of Vermont	" "	10/15/68	10.00
Renfrew, E. R.	Foot Crossing	6/10/71	-
<u>No. Concord, VT.</u>			
Copp, Carroll D.	Land Lease	11/ 1/56	-
Copp, Carroll D.	Water Pipe	11/ 1/56	-
Copp, Carroll D.	2" Water Pipe	10/15/69	10.00
Johnson Lumber Co.	3/4" Water Pipe	12/ 7/37	-
State of Vermont	Conduit	3/10/38	-
Central Vt. Public Service	Guy Wire	5/ 8/47	-
<u>Concord, VT.</u>			
Central Vt. Public Service	Wires	7/ 8/49	5.00
New England Tel & Tel Co.	"	4/ 1/48	15.00
New England Tel & Tel Co.	"	12/10/57	15.00
New England Tel & Tel Co.	Guy Wires	12/10/57	15.00
New England Tel & Tel Co.	Aerial Cable	6/15/57	25.00
Hood, H. P. & Sons	Water Pipe	12/ 9/19	-
Lewis, E. C.	Water Pipe	4/23/17	-
Village of Concord	Sewer	9/28/15	-
<u>East St. Johnsbury, VT.</u>			
Congregational Church	Sewer	10/26/21	-
Croteau, Paul	Water Pipe	9/ 1/53	5.00
Lee, H. J.	Sewer	7/18/14	-

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<u>Name</u>	<u>Description</u>	<u>Agreement Date</u>	<u>Annual Rent</u>
<u>St. Johnsbury, VT.</u>			
Dolgin, Steven	Land Lease	7/16/79	25.00
Gravelin, Elmer	" "	7/ 1/61	14.00
Judd, Alfonso R.	" "	8/ 1/81	25.00
Lewisburg Chair Co.	" "	4/ 1/61	5.00
Maple Grove, Inc.	" "	3/31/69	135.00
Murphy, Bernard J.	" "	7/29/66	90.00
Peck Co., The	" "	5/ 1/61	75.00
Sangravco, Lawrence, Inc.	" "	9/20/78	25.00
Vermont Salvage Corp.	" "	7/10/61	15.00
Colt Industries, Inc.	Tracks 16 & 18	9/22/66	Ind.Owned
Maple Grove/Peck Co.	Track 5	12/ 5/69	" "
Rossi, Alan D.	Track 10	2/23/81	" "
True Temper Corp.	613 Ft. Track 8	7/11/49	" "
True Temper Corp.	45 Ft. Track 8	9/ 1/49	" "
Vermont Salvage Corp.	250 Ft. Track 14	7/ 1/55	" "
Vermont Salvage Corp.	450 Ft. Track 14	4/ 5/52	" "
Central Vt. Public Service	Wires	7/ 3/47	5.00
Central Vt. Public Service	"	1/20/49	5.00
Central Vt. Public Service	"	11/14/50	5.00
Central Vt. Public Service	"	10/20/59	5.00
Central Vt. Public Service	7200 Volt Line	9/ 8/66	25.00
Central Vt. Public Service	34.5 KV Line	1/12/67	40.00
New England Tel & Tel Co.	Wires	1/ 3/49	15.00
New England Tel & Tel Co.	Aerial Cable	6/17/81	25.00
New England Tel & Tel Co.	Cables	4/15/82	-
New England Tel & Tel Co.	Guy Wires	6/17/82	25.00
Sangravco, Lawrence, Inc.	120 Volt Line	6/15/76	25.00
St. Johnsbury Comm. Tele.	Wires	3/20/67	25.00
Vermont Elect. Power Co.	115 KV Line	4/10/72	150.00
Carpenter, C. W.	14" Water Pipe	7/ 6/60	-
Colt Industries, Inc.	4" Water Pipe	1/12/66	10.00
Dean, H. C.	Sewer	1/ 2/17	-
Goodrich, R. B.	12" Water Pipe	12/ 5/69	-
Hudson, K. A.	Sewer	5/25/48	-
Maple Grove, Inc.	Pipes	3/31/69	10.00
Murphy, B. J.	6" Sewer	9/16/67	10.00
Passumpsic Tel. Co.	Conduit	9/15/12	-
Passumpsic Tel. Co.	"	7/30/12	-
Potvin, C. F.	Pipes	8/10/82	25.00
Riverside Lumber Co.	Water	12/ 9/15	-
Town of St. Johnsbury	10" C.I. Pipe	5/28/31	-
Town of St. Johnsbury	14" Water Pipe	8/30/34	-
Town of St. Johnsbury	6" Tile Pipe	9/11/34	-
Town of St. Johnsbury	8" Water Pipe	10/15/58	17.00
Town of St. Johnsbury	10" Sewer	5/20/63	10.00
Town of St. Johnsbury	20" Sewer	5/20/63	20.00
Town of St. Johnsbury	3/4" Water Pipe	10/15/66	10.00

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<u>Name</u>	<u>Description</u>	<u>Agreement Date</u>	<u>Annual Rent</u>
<u>St. Johnsbury, VT.</u>			
Weidmann Ind.	4" Oil Pipes	2/25/81	25.00
Maple Grove, Inc.	Coal Pit	6/20/69	-
Colt Industries, Inc.	Pedestrian Cross.	6/11/82	55.00
Gilfel of Vt., Inc.	Temp. Crossing	5/11/72	-
Maple Grove, Inc.	" "	11/22/82	80.00
True Temper Corp.	" "	7/ 1/62	100.00