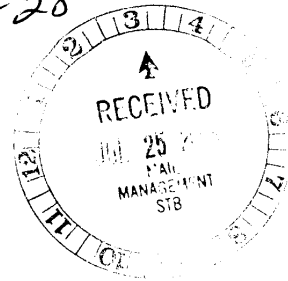


208528

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. NOR 42083



**GRANITE STATE CONCRETE COMPANY, INC. and
MILFORD BENNINGTON RAILROAD COMPANY, INC.**

vs.

**BOSTON AND MAINE CORPORATION and
SPRINGFIELD TERMINAL RAILWAY COMPANY**

**MOTION OF THE BOSTON AND MAINE CORPORATION and THE
SPRINGFIELD TERMINAL RAILWAY COMPANY FOR LEAVE TO FILE
ADDITIONAL EVIDENCE IN OPPOSITION TO PETITION FOR RELIEF
FILED BY GRANITE STATE CONCRETE COMPANY, INC. and MILFORD
BENNINGTON RAILROAD COMPANY, INC. PURSUANT TO 49 U.S.C. § 11123
and 49 C.F.R. § 1146.1**

The Boston and Maine Corporation and the Springfield Terminal Railway Company (collectively "Guilford") hereby move for leave to file additional evidence in opposition to the petition for relief filed by Granite State Concrete Company, Inc. ("Granite State") and Milford Bennington Railroad Company, Inc. ("MBR"). In support of this motion, Guilford submits that the attached article from the July 25, 2003 edition of *The Union Leader* newspaper is directly relevant to Guilford's assertions that the operations of the MBR are not safe and that the MBR lacks credibility. More particularly, the comment by the chairman of the local conservation committee that, "*They [MBR] say they are going to do one thing and then they do another. You have to watch them.*" accurately and succinctly states the concerns of Guilford, as expressed in previous filings. Accordingly, Guilford respectfully requests that its motion be allowed

and that this article be included in the record of any proceedings pursuant to 49 U.S.C. §
11123 and 1146.1.

Respectfully submitted,



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Counsel for:

The Boston and Maine Corporation
The Springfield Terminal Railway Company

July 25, 2003



The Union Leader SUNDAY NEWS

Choose a section

News - July 25, 2003

Wilton Scenic Rail work raises concerns

By GIL BLISS
Union Leader Correspondent

GREENFIELD — Work on the tracks for the Wilton Scenic Railroad is rendering the landscape less than scenic, residents told the Greenfield Board of Selectmen last night, but railroad officials said there will be a cleanup.

Brush cutting along the railroad corridor from Lyndeborough toward the eventual destination of Bennington has scarred the trees, left slash and disrupted wetlands, according to the conservation commission and neighbors along the line.

Railroad owner Stuart Draper, a Wilton selectman, and operator Peter Leishman, a former Milford selectman, met with the board and tried to explain the requirements they must follow under federal railroad regulations, as opposed to state and local ordinances.

Karen Day, chairman of the conservation commission, said the state Department of Environmental Services last week ordered that brush cutting cease while state officials form a policy for cutting when the track runs through an area protected by the Shoreline Protection Act.

Day said it was unclear whether cutting had continued after the order, particularly where the tracks cross Zephyr Lake Road.

Leishman said the federal railroad administration is concerned about safety, visibility and the potential for fire danger along the rail corridor, all of which makes the brush cutting a requirement on either side of the tracks.

Judy Sherman of Zephyr Lake Road said work crews had been clearing brush at the intersection in order to increase visibility from the train for traffic approaching from Route 31 on the lake road.

Day said crews are allowed to cut branches, but not trees. She said brush was to be cut no more than nine feet from the tracks toward the Zephyr Lake shoreline.

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A culvert improperly installed by the train crew off Slip Road has been cited as a wetlands violation by DES, Day said, and Leishman/Draper will be required to perform an "after-the-fact dredge-and-fill" operation, Day said.

"They say they're going to do one thing and then they do another," said Day. "You have to keep an eye on them."

Leishman said earlier that his initial operator of a brush-clearing machine had been overzealous in his work and was fired. In addition to the brush, Leishman has been replacing railroad ties along the line in an effort to rehabilitate the track, which hasn't been used for many years.

Leishman's Milford-Bennington Railroad hauls stone between Milford and Wilton on the tracks but that operation has been recently involved in a dispute over use of the tracks with Guilford Transportation, which controls the tracks from Wilton to the east.

Draper's Wilton Scenic Railroad began operation in May and has been moving farther down the line as the track has improved.

Zephyr Lake Road resident Kent Vincent has been a critic of the rail operation for making improvements on the track without following governmental guidelines.

The issue of safety at intersections was discussed, with Vincent telling the board that the train went by Zephyr Lake for the first time last weekend but exercised no safety measures going through the intersections at Zephyr Lake Road or Ice House Road.

The scenic train has been using flagmen through Lyndeborough intersections, but Vincent said no flagmen were present this past weekend.

Draper disputed that, saying that flagmen were used at Zephyr Lake Road, and the train did not go as far as Ice House Road.

Day said that signs are needed at the crossings and warned of the speed of traffic coming from Route 31 to Zephyr Lake. Leishman said signs will be installed at public intersections.

Chairman Conrad Dumas said Police Chief Brian Giammarino will be notified of the potential safety hazard at the rail crossings.

Sherman also expressed concern at the spraying of herbicide along the tracks near Zephyr Lake, noting that the practice threatened stands of lady-slippers, a species considered threatened in the past.

Day said that a DES-approved herbicide was being used but would have to check on the issue of the threatened plants.

Leishman said the herbicide is the same that has been in use since 1991.

Draper intends for the railroad to reach Greenfield State Park this year and eventual plans

- Deroy Murdo
- Kathleen Par



are to run to Powdermill Pond in Bennington.

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Robert B. Culliford

July 25, 2003



GUILFORD RAIL SYSTEM

**BOSTON & MAINE CORPORATION
MAINE CENTRAL RAILROAD COMPANY
SPRINGFIELD TERMINAL RAILWAY COMPANY
IRON HORSE PARK
NO. BILLERICA, MA 01862
(978) 663-1024
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Mark H. McKeon - FRA
(617) 494-2967

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From: Robert B. Culliford

Subject: Finance Docket No.: NOR 42083
Motion of the Boston and Maine Corporation and the Springfield Terminal
Railway Company for Leave to File Additional Evidence in Opposition to
Petition for Relief filed by Granite State Concrete Company, Inc. and Milford
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