

**ACQUISITION FROM THE  
BOSTON AND MAINE CORPORATION**

**LEBANON  
GRAFTON COUNTY REGISTRY**

## RELEASE DEED

The **BOSTON AND MAINE CORPORATION**, a corporation duly organized and existing under the laws of the State of Delaware, with offices at Iron Horse Park, North Billerica, Middlesex County, Massachusetts (the "Grantor") in consideration of One Hundred and 00/100 (\$100.00) Dollars plus other good and valuable consideration paid to it by **the STATE OF NEW HAMPSHIRE BUYING THROUGH ITS DEPARTMENT OF TRANSPORTATION, John Morton Building, 1 Hazen Drive, Concord, Merrimack County, New Hampshire**, (the "Grantee") hereby grants to the Grantee all the Grantor's right, title and interest, without any warranties or covenants of title whatsoever, in certain parcels or strips of land sometimes referred to as the "Northern Railroad Southern Division" so-called, including all stations, buildings, bridges, structures, crossings, culverts, fixtures, and improvements thereon and including all appurtenances thereto, if any, situated in town of Lebanon, County of Grafton, State of New Hampshire (hereinafter collectively referred to as the "Premises"), more particularly described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND  
MADE A PART HEREOF BY THIS REFERENCE.

This conveyance is subject to the following reservations, conditions, covenants and agreements:

1. This conveyance is made without granting any right of way, either by necessity or otherwise, over any remaining land or location of the Grantor.
2. The Grantor excepts from this conveyance and reserves unto itself, its successors and assigns, a permanent, non-exclusive right of way and through the Premises, a fifteen (15) ft. wide strip of land located seven and one half (7½) feet on either side of the center line of 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"), together with the right of access to where the cable is to be located; provided, further this conveyance is made expressly subject to the right reserved to the Grantor, for itself, its successors and assigns and Grantor may freely lease, license, mortgage, assign, pledge and otherwise alienate the Telecommunications

Easement. Provided further that the Grantor shall: (a) provide the Grantee with ten days notice of Grantor's intention to commence such installation; (b) obtain the Grantee's approval of the location of such proposed installation, which approval shall not be unreasonably withheld or delayed; (c) furnish the Grantee with a complete and detailed description of such installation, including any applicable plans and construction schedules; and (d) replace and/or restore the surface area, if any, disturbed by such installation to either (I) the condition thereof as of the date of this Release Deed; or (ii) if the surface has been paved, to a suitable back-filled and repaved condition. By the acceptance of this deed and as part consideration therefore, the Grantee hereby covenants and agrees for itself, its successors and assigns, to recognize this Telecommunications Easement reservation as a reserved right-of-way and easement appurtenant, and further covenants that upon the request of the Grantor, its successors and assigns, to execute documents suitable in form for recording in the Registry of Deeds which documents confirm and acknowledge this reservation to the Grantor's successors and assigns and acknowledges the right of the Grantor, its successors and assigns to assign same to third parties. Said documents are to be executed without the payment of further consideration of any kind by the Grantor, its successors and assigns to the Grantee, its successors and assigns.

3. The Grantee warrants and covenants that Grantee has inspected and/or is familiar with the condition of the Premises, including the presence of Hazardous Materials and the Regulated Substances and is entering into this conveyance voluntarily upon Grantee's judgments and does not rely upon any representation or warranty, either express or implied of Grantor. Grantee warrants and covenants that the Grantee shall purchase the Premises in its "AS IS, WHERE IS" CONDITION ON THE DATE HEREOF, WITH ALL FAULTS, SUBJECT TO ORDINARY WEAR AND TEAR AND WITHOUT RECOURSE TO GRANTOR. GRANTOR HAS MADE NO REPRESENTATIONS OR WARRANTIES, EITHER EXPRESS OR IMPLIED, AS TO THE PREMISES OR ANY IMPROVEMENTS LOCATED THEREON, IF ANY. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ALL REPRESENTATIONS AND WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED. Grantee agrees that it shall have no right to claim or assert any defense, counterclaim or offset to any obligation it owes Grantor because of any real or purported problem or defect which exists or may arise with respect to the physical or environmental condition of the Premises and all improvements thereon, including but not limited to the presence of Hazardous Materials or Regulated Substances except as otherwise set forth herein. No personal property whatsoever is included in this transaction. NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH IN THIS DEED, THE OBLIGATIONS OF THE GRANTEE SET FORTH IN THIS

PARAGRAPH SHALL SPECIFICALLY SURVIVE RECORDING OF THIS DOCUMENT.

4. The Grantor represents that it has initiated corrective action at the Premises and has filed reimbursement requests with the Oil Fund Disbursement Board and that petroleum fund coverage has been triggered for purposes of the property transferee provisions of New Hampshire Code of Administrative Rules Odb 401.06. The Grantor shall cooperate with the Grantee in establishing the Grantee's eligibility for said petroleum fund reimbursements. However, Grantor's eligibility for said petroleum fund reimbursement shall not in any way affect Buyer's obligations set forth herein.

The Grantee shall establish and maintain for a period of two years beginning as of the Closing Date a segregated account containing the sum of \$200,000.00 to be used for the specific purpose of paying for environmental remediation at the premises that are not eligible for reimbursement from the state petroleum funds pursuant to New Hampshire Code of Administrative Rules Odb 401.06. Grantee hereby agrees to continue environmental remediation/monitoring at the Premises for at least this two year time period and to provide Grantor with quarterly reports regarding Grantee's obligation to continue such remediation/monitoring work.

5. As of the Closing Date, the Grantee assumes all known environmental liabilities, costs and expenses arising from or related to the presence of hazardous materials and regulated substances on, within or under the Premises and/or hazardous materials and regulated substances that have emanated from, or have been released at, the Premises and disclosed in environmental reports or other public records/documents in the custody of the Grantee prior to the Closing Date. These environmental reports and public records/documents are incorporated into this agreement by reference and include, but are not limited to:
- A. December 30, 1998 Letter from Philip J. O'Brien of NHDES to James F. Marshall of NHDOT re: conditions at Westboro Roundhouse Site.
  - B. January 20, 1999 Letter from Christopher Morgan to Kellie A. Dunn re: purchase of Northern Railroad and Lebanon Yard.
  - C. The Remedial Action Plan prepared by ERM and dated March 15, 1995.
  - D. The Initial Site Investigation report prepared by ERM and dated July 22, 1993.
  - E. The Additional Site Investigation report prepared by ERM and dated March 18, 1994.

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- F. Preliminary Site Inspection Report prepared by NHDES dated September 7, 1993 and accompanying letter from Richard S. Reed to the Boston and Maine Corporation dated October 26, 1993.
  - G. October 6, 1993 letter from Lena Karnaukh of NHDES to Vinay Mudholker of the Boston and Maine re: comments on Initial Site Investigation prepared by ERM.
  - H. July 8, 1998 Scope of Work prepared by ERM for groundwater sampling.
  - I. June 2, 1995 letter from Lena Karnaukh of NHDES to David Clough of the Boston and Maine re: Remedial Action Plan prepared by ERM.
  - J. Soil testing results performed by Alpha Analytical Laboratories dated July 26, 1999.
  - K. Any other reports/investigations/memoranda/documents regarding the conditions on the Premises in the possession or control of NHDES or NHDOT prior to and including the Closing Date.
6. For purposes of this Deed, the following terms shall be defined as set forth below:

"Hazardous Materials" means any such toxic or hazardous materials, waste, contaminants or other substances as defined by cumulative reference to the following sources as amended from time to time (i) the Resource Conservation and Recovery Act of 1976, 42 U.S.C. §6901 et. seq. (RCRA); (ii) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §6901 et. seq. (CERCLA); (iii) Superfund Amendments and Reauthorization Act of 1996, 42 U.S.C. §6901 et. seq. (SARA amending CERCLA); (iv) EPA Federal Regulations promulgated under any of the foregoing federal statutes, including but not necessarily limited to those codified in 40 C.F.R. Parts 260-265 and Parts 122-124; (v) New Hampshire RSA Chapters 146-A, 146-C, 147, 147-A and 147-B and (vi) any federal, state or local regulations, rules or orders listed or promulgated under or pursuant to any of the foregoing or otherwise by any department, agency or other administrative, regulatory or judicial body. For purposes of this agreement, the term "Hazardous Material" also includes any building materials composed of asbestos, ureaformaldehyde or lead which are incorporated into such materials, any biomedical wastes, and any oil or petroleum products.

"Environment" means any air, water (surface water and groundwater) or land surface or subsurface strata, rock, other geological formations, flora, fauna, wetlands and any other natural resources;

"Environmental Laws" means all laws, common law, regulations, rules, ordinances, policies, guidances, customs, orders, judgments, or decrees enacted, imposed, or enforced by federal, state or local governmental authorities (i) concerning the protection of the Environment, natural resources, nuisances, noise or Regulated Substances, or (ii) concerning human health and safety (including but not limited to workplace health and safety); including without limitation those governing or affecting Releases into the Environment, including liability therefor, and the use, generation, accumulation, management, handling, labeling, treating, transportation, packaging, storage, and disposal of Regulated Substances or Hazardous Materials. Environmental Laws shall include but shall not be limited to the following laws as they may be amended from time to time, and shall also include any other laws designed for the protection of the Environment that may be enacted in the future: Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C., §§ 9601 et seq. (CERCLA), Emergency Planning and Community Right-to-Know Act of 1986, 42 USC §§ 11001 et seq., Clean Air Act, 42 U.S.C. §§ 7401 et seq., Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq. (Clean Water Act (CWA)), Oil Pollution Act of 1990, 33 U.S.C. §§ 2701 et seq. (OPA), Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 et seq. (FIFRA), Resource Conservation & Recovery Act (RCRA, Solid Waste Disposal Act), 42 U.S.C. §§ 6901 et seq., Safe Drinking Water Act, 42 U.S.C. § 300f-3(c) (SDWA), Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601 et seq., Occupational Safety and Health Act, 29 USC §§ 651 et seq., RSA Ch. 147-B, Hazardous Waste Cleanup Fund, RSA Ch. 147-A, Hazardous Waste Management, RSA Ch. 146-A, Oil Spillage in Public Waters, RSA Ch. 146-C, Underground Storage Facilities, RSA Ch. 149-M. Solid Waste Management, RSA 147, Nuisances; Toilets; Drains; Expectoration; Rubbish and Waste, RSA Ch. 482-A, Fill and Dredge in Wetlands, RSA Ch. 485, NH Safe Drinking Water Act, RSA Ch. 485-A, Water Pollution and Waste Disposal, RSA Ch. 485-C, Groundwater Protection Act, RSA Ch. 141-E, Asbestos Management and Control, RSA 154:8-a.

"Regulated Substances" means any hazardous substance, hazardous material, hazardous waste or oil, petroleum fraction, petroleum product or petroleum byproduct as those terms are defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. §§ 6901 et seq. ("CERCLA"), the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et seq., the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq., the Oil Pollution Act of 1990, 33 U.S.C. §§ 2701 et seq., or under New Hampshire law, including but not limited to the Hazardous Waste Clean-up Fund, RSA 147-B, Hazardous Waste Management, RSA 147-A, and Oil Spillage in Public Waters Statutes, RSA 146-A, and any regulations adopted pursuant to those laws.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing (including the abandonment or discarding of barrels, containers and other receptacles) of any Regulated Substances or Hazardous Materials.

7. The Grantor excepts from this conveyance and reserves for itself a perpetual easement in Bridge Number 142.74, (the "Bridge") highlighted in green on Federal Valuation Plans: 32.1, Map 70 and 71 of the Premises for all purposes necessary and convenient to the operation of a railroad freight service in interstate commerce, including, but not limited to the right to (a) operate freight trains, cars, locomotives and other rail equipment; (b) occupy, use and dispatch all tracks, switches and other facilities (and replacements thereof) anywhere on the Bridge; and (c) have reasonable access to the Bridge to permit the exercise of the foregoing rights, including necessary head and tail room to allow turning of locomotives and cars. Grantor's exercise of this easement shall not unreasonably interfere with the operations of the Grantee's designated operator.

A. The Grantee shall make the final determination as to the grant of new or additional operating and non-operating easements, licenses, rights or privileges (including air rights) affecting the Bridge; provided, however, that the Grantee shall not grant new or additional easements, licenses, rights or privileges if there will be any unreasonable interference caused thereby to the use of the Bridge by Grantor. All new or additional easements, licenses, rights or privileges affecting the Bridge shall be in conformity with, and shall be removed, modified or installed under the supervision and reasonable instruction of the Grantor in order to prevent the unreasonable interference with the rights of the Grantor provided herein. Grantee shall not convey in fee (or any lesser estate) or grant in license, right or easement with respect to any part of the Bridge which would unreasonably impair, impede or interfere with the rights provided to the Grantor herein or impair or destroy the continuity or integrity of the rail system or rail facilities located on the Bridge. Grantee shall first consult with the Grantor before making any such final determination, and Grantor shall provide its recommendations to Grantee within a reasonable time after such consultation.

B. The Grantor covenants to maintain the railroad tracks and related appurtenances (including, but not limited to, ties, ballast, switches, signals, trackage and snow removal) on the Bridge to a standard which the Chief Engineer of the Grantor deems appropriate to the Grantor's use.

C. The foregoing easement shall be extinguished upon the sooner of the Grantor's (or its successors, assigns, etc. ) written notification to the Grantee of the Grantor's cessation of railroad freight operations over the Bridge, or Grantor's abandonment of the rail line transiting the Bridge.

D. The Grantor may assign the foregoing easement and all of its rights, licenses and privileges to operate on the Bridge reserved hereunder to any corporation, trust or entity owned or controlled by the Grantor or by Guilford Transportation Industries, Inc. without the prior written consent of the Grantee or, alternatively, to any rail carrier approved by the United States Surface Transportation Board or its successor for the purposes of continued railroad freight operations, with the prior written consent of the Grantee, which consent shall not be unreasonably withheld.

8. By the acceptance of this deed and as part consideration therefor, the Grantee hereby assumes any and all agreements, covenants, obligations and liabilities of the Grantor in respect to any underground facilities, drainage culverts, walls, crossings and/or other structures of any nature and description located in whole or in part within the Premises.
9. This conveyance is subject to the following restriction for the benefit of other land or location of the Grantor, to wit: that from the date of delivery of this deed, the Grantor shall not be liable to the Grantee or any lessee or user of the Premises (or any part thereof) for any damage to any buildings or property upon them caused by fire, whether communicated directly or indirectly by or from locomotive engines of any description upon the railroad operated by the Grantor, or otherwise.
10. Whenever used in this deed, the term "Grantor" shall not only refer to the **BOSTON AND MAINE CORPORATION**, but also its successors, assigns and affiliates and the term "Grantee" shall not only refer to the above-named Grantee, but also the Grantee's successors, assigns and grantees, as the case maybe.
11. The several exceptions, reservations, conditions, covenants and agreements contained in this deed shall be deemed to run with the land and be binding upon the Grantee forever. In addition to the acceptance and recording of this deed, the Grantee hereby signifies assent to the said several exceptions, reservations, conditions, covenants and agreements, by joining in its execution.

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IN WITNESS WHEREOF, the said **BOSTON AND MAINE CORPORATION** has caused this release deed to be executed in its name and its corporate seal to be hereto affixed by David A. Fink, the Chief Executive Officer of the **BOSTON AND MAINE CORPORATION**, on this 29<sup>th</sup> day of July, 1999.

**GRANTOR:  
BOSTON AND MAINE CORPORATION**

[Signature]  
Witness

By: David A. Fink  
David A. Fink, Chief Executive Officer

**GRANTEE:  
STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION**

Cristy Morgan  
Witness

By: James F. Marshall

**APPROVED AND ACCEPTED:  
STATE OF NEW HAMPSHIRE  
OFFICE OF THE ATTORNEY GENERAL**

Cristy Morgan  
Witness

By: Michael Wales

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COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

July 29, 1999

Then personally appeared the above-named David A. Fink, the Chief Executive Officer of the **BOSTON AND MAINE CORPORATION** and acknowledged the foregoing deed to be his free act and deed and the free act and deed of said **BOSTON AND MAINE CORPORATION**, before me.

Kellie [Signature]  
Notary Public  
My commission expires: 12/03/04

STATE OF NEW HAMPSHIRE

Merrimack,ss

JULY 30, 1999

Then personally appeared JAMES MARSHALL the DIRECTOR PUBLIC WORKS of **STATE OF NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION** and acknowledged the foregoing deed to be his/her free act and deed and the free act and the free act and deed of said **STATE OF NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION**, before me.

Mare C. Cusson  
Notary Public  
My Commission Expires: 6/5/2001

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STATE OF NEW HAMPSHIRE

Merrimack,ss

JULY 30, 1999

Then personally appeared Michael Walls the ASSISTANT ATTORNEY GENERAL of **STATE OF NEW HAMPSHIRE OFFICE OF THE ATTORNEY GENERAL** and acknowledged the foregoing deed to be his/her free act and deed and the free act and the free act and deed of said **STATE OF NEW HAMPSHIRE OFFICE OF THE ATTORNEY GENERAL** before me.

Mare C. Cusson  
Notary Public  
My Commission Expires: 6/5/2001

## Legal Description

Certain parcels and strips of land (railroad-right-of-way) running through the town of West Lebanon, County of Grafton, State of New Hampshire and being portions of the railroad line sometimes referred to as the "Lebanon Branch" of the Northern Railroad so called, and including all stations, buildings, bridges, structures, crossings, culverts, and improvements thereon and including all appurtenances thereto, and being more particularly described as:

### **Parcel A:**

A certain strip of railroad right-of-way beginning at a point designated as Engineering Station 3515+69± on Federal Valuation Plan 32.1- Map 68;

Thence running in a generally westerly direction through Federal Valuation Plan 32.1 Map 68 to a point designated as Engineering Station 3605± on Federal Valuation Plan 32.1 Map 69;

Thence turning and running in a generally northerly direction to a point designated as Engineering Station 3662+40± on Federal Valuation Plan 32.1 VT Map 71 and more particularly shown as outlined in yellow on Federal Valuation Plan 32.1- Map 70.

Said parcel containing a total area of about 1,965,000 square feet more or less, or about 45.11 acres, more or less.

### **Parcel B:**

Certain parcels of land, located on the southerly side of the right-of-way, said land being commonly referred to as the "West Lebanon Yard" so called, and including all stations, buildings, bridges, structures, crossings, culverts, and improvements thereon and including all appurtenances thereto, as outlined in red on the Federal Valuation Plan 32.1, Map 70.

Said parcel containing a total area of about 403,490 square feet more or less, or about 9.26 acres, more or less.

### **Parcel C:**

Certain parcels of land, located on the northerly side of the right of way, said land being commonly referred to as the "West Lebanon Yard", so called, and including all stations, buildings, bridges, structures, crossings, culverts, and improvements thereon and including all appurtenances thereto, as outlined in blue on the Federal Valuation Plan 32.1, Map 70.

Said parcel containing a total area of about 427,340 square feet of land more or less, or about

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9.81 acres more or less.

**Parcel D:**

Grantor reserves unto itself, its successors and assigns, Parcel D-1 and D-2, located on the northerly side of the right-of-way, said land being located within the area referred to as the "West Lebanon Yard", so called, and including all stations, buildings, bridges, structures, crossing, culverts, and improvements thereon and including all appurtenances thereto, as outlined in green on the Federal Valuation Plan 32.1, Map 70 in Exhibit E and outlined in green on the Land Sale Plan attached

Said Parcel D-1 contains approximately 9,690 square feet more or less and being shown on the attached Land Sale Plan as Parcel A.

Said Parcel D-2 contains approximately 5,695 square feet more or less and being shown on the attached Land Sale Plan as Parcel B.

Grantor reserves the right to convey out Parcels D-1 and D-2 during the six month period following the date of the delivery of the deed of Parcels A, B and C as noted above. If Parcels D-1 and D-2 are not conveyed during the six month period, the Grantor reserves the right to convey these parcels to the New Hampshire Department of Transportation.

Grantor reserves unto itself, its successors and assigns, the right to pass and repass with the Grantee, its successors and assigns and all other parties having rights therein, on and over said driveways and roadways for pedestrian and vehicular access.

Said tracts include the entire width of said portion of said rail line including all appurtenances thereto and all fixtures attached or affixed thereon. Said right-of-way runs in a generally northwesterly direction and is more particularly defined as shown, outlined within heavy dashed lines (— •• — •• —) as shown on federal valuation plans on file with the Chief Engineer of the Boston and Maine Corporation, Iron Horse Park, North Billerica, Massachusetts and the State of New Hampshire, Department of Transportation, Bureau of Railroads and Public Transportation, 1 Haven Drive, Concord, NH 03302.

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No. 6

Hyd. & Hose

HOUSE

Turntable

Shed

Ash

BK2409 PG0876  
P.S. 3652 x 2655  
Snow Melting  
Outfit

Moody

No. 5

PARCEL 'A'

PARCEL 'B'

No. 27

No. 7

No. 18

No. 30

No. 15

No. 6

No. 17

No. 23

MAIN

ST

Carl A. Elliott  
99 AUG -2 AM 11:20  
GRAFTON COUNTY  
REGISTRY OF DEEDS  
Register of Deeds

WATERSTOWN  
VERMONT

PARCEL 'A' AREA-ABT. 9,690 SQ.FT.±  
PARCEL 'B' AREA-ABT. 5,695 SQ.FT.±

TOTAL AREA-ABT. 15,385 SQ.FT.±

S# 9754

DRAWN BY MAT		CHECKED BY		APPROVED BY	
BOSTON & MAINE CORPORATION					
OFFICE OF THE VICE PRESIDENT - ENGINEERING					
LEBANON, N.H.					
LAND SALE PLAN					
LINE : MAIN LINE: CONCORD TO WHITE RIVER					
V.S. 32.1		-MAP 70		MILE POST :	
DATE : 6/					

\$56.71

*Carol A. Elliott*  
EXAMINED, ATTEST  
GRAFTON COUNTY REGISTER OF DEEDS