

UNITED STATES DISTRICT COURT
District of Maine

JAMES E. HOWARD, Chapter 11)
Trustee, Bangor and Aroostook)
Railroad Company and Van Buren)
Bridge Company,)
)
Plaintiff,)
)
vs.) Civil No. 03-63-P-S
)
CANADIAN NATIONAL RAILWAY COMPANY)
)
Defendant.)

ORDER AFFIRMING THE
RECOMMENDED DECISION OF THE MAGISTRATE JUDGE

The United States Magistrate Judge filed with the Court on October 9, 2003 his Recommended Decision. Plaintiff filed its objections to the Recommended Decision on October 27, 2003 and Defendant filed its response to those objections on November 13, 2003. I have reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record; I have made a de novo determination of all matters adjudicated by the Magistrate's Judge's Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in his Recommended Decision, and determine that no further proceeding is necessary.

It is therefore ORDERED that the Court GRANTS the Motion to Dismiss as to Count III of the Complaint and DEFERS adjudication of the motion as it pertains to the remaining

counts of the Complaint pending final disposition of the Surface Transportation Board of the Trustee's adverse-abandonment petition. This Order MOOTS Plaintiff's Motion for an Order Pursuant to 11 U.S.C. § 1170 Directing the Surface Transportation Board to Issue Report within 60 Days of Filing of Abandonment Application (Docket #7) and Motion of Fraser Papers, Inc. To Quash Subpoena Duces Tecum of Trustee of Bangor and Aroostook Railroad Company (Docket #15). Counsel is ORDERED to keep the Court advised of any action by the Surface Transportation Board.

/s/ George Z. Singal
Chief U.S. District Judge

Dated this 18th day of November, 2003.

**CHAPTER 11 TRUSTEE, of the
Chapter 11 estates of Bangor and
Aroostook Railroad Co & Van
Buren Bridge Co**

represented by **CHARLES H. WHITE**
1200 BRITANNIA LANE
ANNAPOLIS, MD 21403
410-268-8575
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

KEVIN M. SHEYS
KIRKPATRICK & LOCKHART LLP
1800 MASSACHUSETTS AVE, NW
2ND FLOOR
WASHINGTON, DC 20036
202-778-9000
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

ROGER CLEMENT
VERRILL & DANA
1 PORTLAND SQUARE
P.O. BOX 586
PORTLAND, ME 04112
(207) 774-4000

Email: rclement@verrilldana.com

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

ANDREW R. SARAPAS

VERRILL & DANA

1 PORTLAND SQUARE

P.O. BOX 586

PORTLAND, ME 04112

(207) 774-4000

Email: asarapas@verrilldana.com

ATTORNEY TO BE NOTICED

DAVID C. JOHNSON

VERRILL & DANA

1 PORTLAND SQUARE

P.O. BOX 586

PORTLAND, ME 04112-0586

207-774-4000

Email: djohnson@verrilldana.com

ATTORNEY TO BE NOTICED

EDWARD J. FISCHMAN

KIRKPATRICK & LOCKHART LLP

1800 MASSACHUSETTS AVE, NW

2ND FLOOR

WASHINGTON, DC 20036

202-778-9000

ATTORNEY TO BE NOTICED

**CANADIAN NATIONAL
RAILWAY COMPANY**

represented by **FRANCES GECKER**
FREEBORN & PETERS
311 SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606
312-360-6596
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

GEORGE J. MARCUS
MARCUS, CLEGG & MISTRETТА,
P.A.
100 MIDDLE STREET
EAST TOWER, 4TH FLOOR
PORTLAND, ME 04101-4102
(207) 828-8000
Email: federalcourt@mcm-law.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

THOMAS J. LITWILER
FLETCHER & SIPPEL, LLC
29 NORTH WACKER DRIVE
SUITE 920
CHICAGO, IL 60606-2875
312-252-1505
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

REGAN M. HORNNЕY
MARCUS, CLEGG & MISTRETТА,
P.A.
100 MIDDLE STREET
EAST TOWER, 4TH FLOOR
PORTLAND, ME 04101-4102
(207) 828-8000
Email: federalcourt@mcm-law.com
ATTORNEY TO BE NOTICED

**WATERLOO RAILWAY
COMPANY**

represented by **FRANCES GECKER**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

GEORGE J. MARCUS
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

THOMAS J. LITWILER

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

REGAN M. HORNEY

(See above for address)

ATTORNEY TO BE NOTICED

FRASER PAPERS INC

represented by

RICHARD P. OLSON

PERKINS, OLSON & PRATT

30 MILK ST.

P.O. BOX 449

PORTLAND, ME 04112

207-871-7159

LEAD ATTORNEY

ATTORNEY TO BE NOTICED