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August 4, 2023

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: STB FD 36696- *Grafton and Upton Railroad Company –Petition for Declaratory Order*

Dear Ms. Brown:

Attached please find the response of the Grafton and Upton Railroad Company to the Petition of the Town of Hopedale, Massachusetts to Supplement the Record.

Sincerely,

John M. Scheib
Attorney for Grafton
and Upton Railroad Company

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 36696

**GRAFTON AND UPTON RAILROAD COMPANY –
PETITION FOR DECLARATORY ORDER**

**GRAFTON AND UPTON RAILROAD COMPANY'S
RESPONSE TO THE PETITION OF THE TOWN OF HOPEDALE, MASSACHUSETTS
TO SUPPLEMENT THE RECORD**

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Attorneys for Grafton
and Upton Railroad Company

Dated: August 4, 2023

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 36696

**GRAFTON AND UPTON RAILROAD COMPANY –
PETITION FOR DECLARATORY ORDER**

**GRAFTON AND UPTON RAILROAD COMPANY’S
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TO SUPPLEMENT THE RECORD**

The recent Petition of the Town of Hopedale, Massachusetts to Supplement the Record (“Petition”) is another attempt by the Town of Hopedale (“Town”) to manufacture a distraction by cherry-picking a single sentence from an affidavit filed in an unrelated proceeding. In the last eighteen months, Grafton & Upton Railroad (“GURR”) has had many versions of design plans for the rail transportation facility to be built on the property that the Town seeks to take by eminent domain. With the passage of so much time, ongoing work and evaluation of the site, and changing interest rates that affect financing, it is not surprising that plans change. Second Verified Statement of Jon Delli Priscoli (“2nd Delli Priscoli VS”), which is attached hereto, at ¶ 18. What has not changed, however, is: (1) the fact that the Town seeks to take the entirety of GURR’s property at 364 West Street, which the Town reinforced with a vote on July 24, 2023; (2) the order of the United States District Court for the District of Massachusetts (“Court”); and (3) the intent of GURR to construct a state-of-the-art transloading rail facility at the subject site.

Revisions to the plan for the rail transportation facility do not change the fact that the Town seeks to take 130 acres+- of GURR's property at 364 West Street by eminent domain, which would absolutely prohibit any rail transportation development of the subject property. Indeed, the Town has reiterated its intent to take the 130+ parcel with votes to take this property by eminent domain by the Town's Selectboard on June 26, 2023, and on July 24, 2023 – six days after it filed the Petition. 2nd Delli Priscoli VS at ¶ 20 & Exhibit 2. Similarly, revisions to a plan do not change the fact that the Town, through the Hopedale Conservation Commission (“Commission”), has sought to derail the construction of the rail transportation facility by using preempted preclearance requirements.

Nor do revisions to a development plan change the questions in this proceeding that were presented by the Court. Court Memorandum and Order at 27.¹ The questions presented were (1) whether the Town's proposed taking of the 130+ acres (the entire parcel) of GURR's land was preempted by 49 U.S.C. § 10501(b) and (2) whether the Commission's Enforcement Order was preempted by 49 U.S.C. § 10501(b). *Grafton & Upton R.R. Co., et al. v. Town of Hopedale, et al.*, Case No. 4:22-cv- 2 40080-ADB (D. Mass. Apr. 3, 2023) at 27.

GURR's intent to develop the property into a rail transload facility remains unchanged also. GURR continues to plan and prepare for the construction of a rail transload facility now and for future growth on the property after obtaining a ruling on the preemption questions. 2nd Delli Priscoli VS at ¶ 12, 19, & 20. The latest plans, which are also subject to change with expansion or contraction of the proposal as needed and as circumstances change, are attached to the 2nd Delli Priscoli VS. Final design plans, however, are not a prerequisite to preemption

¹ The Court's Memorandum and Order was filed as Exhibit 2 to GURR's Petition for Declaratory Order filed on April 14, 2023.

because design plans can change for many reasons. *Skidmore v. Norfolk Southern Ry. Co.*, 1 F.4th 206, 214 (4th Cir. 2021) (“the fact that Norfolk Southern may use the land in the future is enough to hold that her claims constitute an attempt to govern or manage rail transportation.”); *City of Lincoln v. STB*, 414 F.3d 858, 862 98th Cir. 2005) (“Condemnation is a permanent action, and it can never be stated with certainty at what time any particular part of a right of way may become necessary for railroad uses.”); *Detroit/Wayne County Port Auth, v. ICC*, 59 F.3d 1314 (D.C. Cir. 1995) (recognizing that it is not unusual that, as railroad traffic changes and grows, railroad facilities may need to be upgraded).

Although GURR regrets that it did not provide a copy of the current plan to the Surface Transportation Board (“STB”) prior to the Town cherry-picking a single sentence out of an affidavit,² GURR has been forthright in all legal proceedings by presenting the then-current design plan and by being clear that its plan and design for the rail transportation facility may change as work continues and as time passes. Indeed, Mr. Delli Priscoli’s Verified Statement attached to the Petition for Declaratory Order noted that “the proposed rail transportation facility has been *conceptually* designed.” Verified Statement of Jon Delli Priscoli, filed April 14, 2023, at 4 (emphasis added). He further forthrightly discussed the fact that the site plan has changed in the past: “[t]he current site plan, which has been shared and discussed with the Town *in various versions* as it has been developed over the last several years.” *Id.* (emphasis added). Such changes were also forecasted in court proceedings by GURR’s engineers, who noted that: “[t]he plan, revised through August 1, 2022, is not a final plan, but represents a realistic conceptual

² A copy of the revised plan is attached as Exhibit 1 to the Second Verified Statement of Jon Delli Priscoli (“2nd Delli Priscoli VS”), which is attached hereto. The red dotted line on the plan shows the GURR property that the Town seeks to take.

build-out as of August 1, 2022” and that they “expect D&L Design will continue to work with GURR to further design and engineer the site before the plans are prepared, which is consistent with generally accepted engineering and surveying practices.” Affidavit of Michael Dean, dated February 6, 2023, at ¶ 9, and attached hereto (“Dean Affidavit”).³ Since the beginning of the dispute between the Town and GURR GURR’s owner has prudently continued to evaluate the project design and prepared revised plans in light of various circumstances, including interest rate changes that affect financing, and the scope needed most immediately. 2nd Delli Priscoli VS at ¶ 8, 10, 11, & 13.

Regrettably, the Town continues to manufacture distractions – previously attempting to manufacture a dispute over GURR ownership of the 364 West Street property⁴ -- because the issue presented by the Court and the facts lead to the inevitable conclusion that the Town’s attempt to stop development of rail facilities by taking 130 acres+- of land at 364 West Street by eminent domain and through the Commission’ order is preempted. Indeed, the Court found that GURR was entitled to a preliminary injunction enjoining the Town from taking its property (and from enforcing the preclearance order from the Town’s Conservation Commission (“Commission”)) after noting that “if Hopedale is not enjoined from recording notice, GURR will quickly be divested of title to the property and therefore unable *to continue developing* its facility.” *Id.* at 23-24. In fact, in evaluating the likelihood of success on the merits, the Court rejected the argument that the Town is now reprising that “GURR’s development of the

³ Mr. Dean is a licensed professional engineer. *See* Dean Affidavit at ¶ 4.

⁴ *See Grafton and Upton R.R. Co.—Petition for Dec. Order*, STB FD 36696 at 2 (Decided Apr. 28, 2023) (“Accordingly, the alleged state law property dispute relied on by the Town in its motion is not relevant to this proceeding.”); GURR’s Motion to Strike, filed May 16, 2023, at 5.

transloading facility is not far enough along to allow the conclusion that the construction will ‘come to fruition.’” *Id.* at 21.

The dispute directed to the STB by the Court does not involve any specific set of plans for the rail transportation facility because the Town seeks to take the entire property regardless of the design of the rail transportation facility. So, the Town is demonstrably incorrect when it claims that a specific plan is the “sole basis for preemption.” Petition at 4. Taking property owned by a rail carrier that is designated for rail transportation uses now or in the future is preempted. *Zayo Group LLC v. Norfolk South. R.R. Co.*, 610 F.Supp.3d 851 (E.D. Va. 2022) (“The ICCTA's exclusive remedies do not provide for condemnation.”). *Union Pac. R.R. Co. v. Chi. Transit Auth.*, Case No. 07-cv-229 (N.D. Ill. Feb. 23, 2009) (N.D. Ill. 2009), *aff'd Union Pac. R.R. Co. v. Chi. Transit Auth.*, 647 F.3d 675 (7th Cir. 2011) (“[T]he Court notes that nearly every judicial or STB opinion to have considered the question has concluded that the use of eminent domain power is a preempted form of state regulation.”). Also preempted are preclearance requirements like those that the Commission seeks to impose on GURR. The only fact that could change this proceeding is if the Town is now representing that it no longer seeks to take the property through eminent domain. Rather, the Town continues to pursue the taking of the entire rail property by eminent domain, as most recently evidenced by the June 26, 2023, and July 24, 2023 votes by the Town’s Selectboard to take this property by eminent domain. 2nd Delli Priscoli VS at ¶ 20 & Exhibit 2.

The Town erroneously seeks to represent that a single sentence from Mr. Delli Priscoli’s recent affidavit in another matter endorses the Town’s position that development of the rail facility on GURR’s property is impossible. Even if relevant, what Mr. Delli Priscoli said was that upon his return to a more active role overseeing railroad operations, he has determined that

that plan is at this time "not workable since slope issues make track installation impractical." Mr. Delli Priscoli in no way endorsed the Town's position that the construction of a rail transload facility was impossible. 2nd Delli Priscoli VS at ¶ 18.

In fact, both the August 1, 2022 plan and the current plan are both workable; they just reflect different levels of cost to be incurred. Verified Statement of Michael Dean at ¶ 3 & 5 ("Dean VS"), which is attached hereto. GURR's licensed professional engineer, while acknowledging the significant slope and grade issues presented by the property, opined that the prior version of the development represented "a realistic conceptual build-out." See Dean Affidavit at ¶ 9; see also Dean VS at ¶ 3 ("The plan was practicable and feasible because slope issues are remediable, for example with fill, but at a cost. The issue with the August 1, 2022 plan comes down to cost, and whether GURR in its business judgment is willing to spend the money required to perform the necessary earthworks and excavation to address slope."). The August 1, 2022 plan was realistic and deliverable at a cost. 2nd Delli Priscoli VS at ¶ 10. Nevertheless, GURR has continued to consult with engineers and has developed a new design plan that will result in the immediate development of the property at a lower cost rather than the ultimate development of the property. *Id.* at ¶ 13; see also Dean VS at ¶ 4. Future expansion beyond the current, less-costly conceptual plan to something more like the August 1, 2022 plan may be needed later (depending on financial and economic conditions) to meet further growth in demand, which would necessitate then incurring the cost to remediate slope issues, and may also necessitate additional wastewater treatment facilities, new wells, and buffer zones that require even more of the West Street property.

Moreover, the Town places more weight on a single sentence than it can hold – especially when the entire affidavit, including Paragraphs seven and eight, is read. Paragraph eight makes

clear that the property subject to the threatened eminent domain taking is required for the rail facility and only some may not be needed for the immediate development, which could make some of the property available to the Town in the future in a deal to settle this dispute while protecting enough land for incremental additions to the rail facilities. Without a settlement, the remainder of the property would be reserved for the ultimate development of the property with further rail transportation facilities and supporting infrastructure. But as recently as July 24, 2023, the Town has reiterated its intent to take the entire 130+acres. *Id.* at ¶ 20 & Exhibit 2.

Regrettably, the Town's current attempt to distort Mr. Delli Priscoli's affidavit is just the latest in a long line of acts by the Town intended to increase the costs of GURR doing business and to prevent the development of the rail facility by GURR. The Town previously entered into a settlement agreement with GURR and tried to jettison that agreement. Then, the Town sought to seize the 130 acres+- by eminent domain. It has also violated public meeting laws with regard to issues involving GURR, which have been documented by the Massachusetts Attorney General. *See* GURR's Motion to Strike, filed May 16, 2023, at 5.

Despite the Town's actions, GURR remains a good citizen. Indeed, it has recently spent more than \$200,000 at the site on environmental work. *Id.* at ¶ 17. GURR has worked with Federal authorities to address wetlands issues. GURR has also been and remains willing to meet and discuss the project with the Town. *Id.*

In short, this dispute is not about the design plan. The Town does not care about the plan. It does not want any railroad development, which is why it seeks to take 130 acres+- of GURR's land at 364 West Street by eminent domain (and to impose preclearance requirements on GURR through its Commission). The issue referred by the Court remains unchanged. GURR respectfully requests that the STB find the Town's eminent domain actions and preclearance

requirements are preempted so that GURR can move forward with the development of the rail transportation facility. GURR looks forward to moving forward with the development of the rail facility to meet the needs of customers and the public interest. *Id.* at ¶ 19.

Respectfully submitted,



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jim@jehowardlaw.com

Attorneys for Grafton
and Upton Railroad Company

Dated: August 4, 2023

CERTIFICATE OF SERVICE

I hereby certify that I have served by email a true and correct copy of the foregoing on all parties to this proceeding, or their attorney of record, as follows:

Mr. Charles Spitulnik, Esq. (csputulnik@kaplankirsch.com)
Mr. W. Eric Pilsk, Esq. (epilsk@kaplankirsch.com)
Kaplan Kirsch Rockwell
1634 Eye St., NW, Suite 300
Washington DC, 20006

on this 4th day of August, 2023.



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Norfolk, VA 23510
757-916-3511

Attorney for Grafton
and Upton Railroad Company

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 36696

**GRAFTON AND UPTON RAILROAD COMPANY –
PETITION FOR DECLARATORY ORDER**

FEBRUARY 7, 2023 AFFIDAVIT OF MICHAEL DEAN

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

GRAFTON & UPTON RAILROAD)
COMPANY, JON DELLI PRISCOLI and)
MICHAEL R. MILANOSKI, as Trustees)
of ONE HUNDRED FORTY REALTY TRUST,)

Plaintiffs)

vs.)

TOWN OF HOPEDALE, THE HOPEDALE)
SELECT BOARD, by and through its members,)
GLENDA HAZARD, BERNARD STOCK,)
and BRIAN KEYES and THE HOPEDALE)
CONSERVATION COMMISSION by and)
through its members, BECCA SOLOMON,)
MARCIA MATTHEWS and DAVID)
GUGLIELMI)

Defendants)

Case No. 4:22-cv-40080-ADB

AFFIDAVIT OF MICHAEL DEAN

Now comes Michael Dean, who on oath deposes and says as follows:

1. I am a resident of Upton, Massachusetts and I am the President of D&L Design Group, Inc., a Massachusetts professional civil engineering and land surveying firm. I have personal knowledge of the facts set forth in this Affidavit.

2. I have attached hereto as Exhibit 1 a true and accurate copy of the Articles of Organization of D&L Design Group, Inc. ("D&L"), which was organized as a Massachusetts corporation on May 22, 2022.

3. I am a licensed professional civil engineer through the Massachusetts Board of Registration of Professional Engineers and of Land Surveyors, under License No. 46255. A true and accurate copy of my license is attached hereto as Exhibit 2.

4. I have been a licensed professional civil engineer in Massachusetts for over 17 years. Prior to opening my own business in May 2022, I have over 30 years of experience working in the field of civil engineering and land surveying, 28+ years with Guerriere & Halnon, Inc (G&H), 6 years with the Town of Milford as the Town Engineer and just over eight (8) months as the owner of D& L Design Group, Inc. While at G & H, I started working summers in the field surveying, progressed to party chief, then to Jr. Engineer, then to Project Engineer, Professional Engineer, then to Engineering Manager and my final position at G&H was Office Manager, where, as Office Manager, I was responsible for managing the daily operations of an office comprised of ten (10) to fifteen (15) civil engineers and land surveyors. The previous nine (9) years I held the position of Engineering Manager leading a team of civil engineers. I am a graduate of Wentworth Institute of Technology with a BSCE degree (with honors, Cum Laude) and have the following certifications: Registered Professional Engineer (Civil) in the Commonwealth of Massachusetts, State Certified Soil Evaluator and State Licensed Title V Inspector. I have also attended numerous seminars and classes pertaining to land development and regulatory implementation.

5. D & L Design Group, Inc. was retained by Grafton & Upton Railroad Company to provide civil engineering and land surveying services for a project referred to as 364 West Street, Hopedale, MA (the site). The evaluation of the property was associated with a railroad transportation facility at the site.

6. Over the course of several months D & L Design Group, Inc., in conjunction with GURR representatives, prepared preliminary plans for the site which


were revised over the course of several months. The plans are associated with the development of a rail transportation facility at the site.

7. The most recent revised plan for the 364 West Street site – entitled “GU Railroad’s Metrowest Transloading & Logistics Center in Hopedale, MA” is dated, August 1, 2022. A true and accurate copy of this plan, revised through August 1, 2022, which includes my professional engineer stamp in the top right corner, is attached hereto as Exhibit 3.

8. As stated in the 4th Note on the August 1, 2022 Plan, “All train rails shown on this plan have been based upon using 2.5% slopes maximum.”

9. I do not dispute that the land at 364 West Street has some steep topography, but the Plan, revised through August 1, 2022 fairly and accurately represents a realistic conceptual build-out, revised over several months working with representatives of GURR, at the 364 West Street site, including the layout of proposed buildings and proposed parking areas. The plan, revised through August 1, 2022 is not a final plan, but represents a realistic conceptual build-out as of August 1, 2022. I expect D&L Design will continue to work with GURR to further design and engineer the site before final plans are prepared, which is consistent with generally accepted engineering and surveying practices.

Signed under the penalties of perjury this 6th day of February 2023.


Michael Dean, P.E.

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to counsel of record for all parties on this 7th day of February 2023.

/s/ Donald C. Keavany, Jr.

EXHIBIT 1



The Commonwealth of Massachusetts
William Francis Galvin

Minimum Fee: \$250.00

Secretary of the Commonwealth, Corporations Division
One Ashburton Place, 17th floor
Boston, MA 02108-1512
Telephone: (617) 727-9640

Articles of Organization

(General Laws, Chapter 156D, Section 2.02; 950 CMR 113.16)

Identification Number: 001583820

ARTICLE I

The exact name of the corporation is:

D & L DESIGN GROUP, INC.

ARTICLE II

Unless the articles of organization otherwise provide, all corporations formed pursuant to G.L. C156D have the purpose of engaging in any lawful business. Please specify if you want a more limited purpose:

THE PURPOSE OF THE BUSINESS IS TO PROVIDE SURVEYING, CIVIL ENGINEERING AND OTHER RELATED SERVICES FOR THE DEVELOPMENT OF LAND. ADDITIONALLY, TO CARRY ON ANY OR ALL OF THE BUSINESS OF THE CORPORATION AS PRINCIPAL, AGENT OR CONTRACTOR, AND TO CARRY ON ANY OTHER BUSINESS INCIDENTAL TO AND IN CONNECTION WITH THE FOREGOING AND TO HAVE AND TO EXERCISE ALL THE POWERS CONFERRED BY THE LAWS OF THE COMMONWEALTH OF MASSACHUSETTS UPON CORPORATIONS FORMED UNDER THE GENERAL LAWS THEREOF, AND TO ANY AND ALL THE THINGS HEREINBEFORE SET FORTH TO THE SAME EXTENT AS NATURAL PERSONS MIGHT DO.

ARTICLE III

State the total number of shares and par value, if any, of each class of stock that the corporation is authorized to issue. All corporations must authorize stock. If only one class or series is authorized, it is not necessary to specify any particular designation.

Class of Stock	Par Value Per Share Enter 0 if no Par	Total Authorized by Articles of Organization or Amendments		Total Issued and Outstanding Num of Shares
		Num of Shares	Total Par Value	
CNP	\$0.00000	15,000	\$0.00	400

G.L. C156D eliminates the concept of par value, however a corporation may specify par value in Article III. See G.L. C156D Section 6.21 and the comments thereto.

ARTICLE IV

If more than one class of stock is authorized, state a distinguishing designation for each class. Prior to the issuance of any shares of a class, if shares of another class are outstanding, the Business Entity must provide a description of the preferences, voting powers, qualifications, and special or relative rights or privileges of that class and of each other class of which shares are outstanding and of each series then established within any class.

ARTICLE V

The restrictions, if any, imposed by the Articles of Organization upon the transfer of shares of stock of any class are:

ANY STOCKHOLDER, INCLUDING THE HEIRS, ASSIGNS, EXECUTORS OR ADMINISTRATORS OF A DECEASED STOCKHOLDER DESIRING TO SELL OR TRANSFER SUCH STOCK OWNED BY HIM OR HER, SHALL FIRST OFFER IT TO THE CORPORATION THROUGH THE BOARD OF DIRECTORS IN THE MANNER FOLLOWING: HE OR SHE SHALL NOTIFY THE DIRECTORS OF HIS OR HER DESIRE TO SELL OR TRANSFER BY NOTICE IN WRITING, WHICH NOTICE SHALL CONTAIN THE PRICE AT WHICH HE OR SHE IS WILLING TO SELL OR TRANSFER AND THE NAME OF ONE (1) ARBITRATOR. THE DIRECTORS SHALL WITHIN THIRTY (30) DAYS THEREAFTER, EITHER ACCEPT THE OFFER OR BY NOTICE TO HIM OR HER, IN WRITING, NAME A SECOND ARBITRATOR, AND THESE TWO SHALL NAME A THIRD. IT SHALL THEN BE THE DUTY OF THE ARBITRATORS TO ASCERTAIN THE VALUE OF THE STOCK, AND IF ANY ARBITRATOR SHALL NEGLECT OR REFUSE TO APPEAR AT ANY MEETING APPOINTED BY THE ARBITRATORS, A MAJORITY MAY ACT IN THE ABSENCE OF SUCH ARBITRATOR. AFTER THE ACCEPTANCE OF THE OFFER, OR THE REPORT OF THE ARBITRATORS AS TO THE VALUE OF THE STOCK, THE DIRECTORS SHALL HAVE THIRTY (30) DAYS WITHIN WHICH TO PURCHASE THE SAME AT SUCH VALUATION, BUT IF AT THE EXPIRATION OF THIRTY (30) DAYS, THE CORPORATION SHALL NOT HAVE EXERCISED THE RIGHT TO SO PURCHASE, THE OWNER OF THE STOCKS SHALL BE AT LIBERTY TO DISPOSE OF THE SAME IN ANY MANNER HE OR SHE MAY SEE FIT. NO SHARES OF STOCK SHALL BE SOLD OR TRANSFERRED ON THE BOOKS OF THE CORPORATION UNTIL THESE PROVISIONS HAVE BEEN COMPLIED WITH, BUT THE BOARD OF DIRECTORS MAY IN ANY PARTICULAR INSTANCE WAIVE THE REQUIREMENTS.

ARTICLE VI

Other lawful provisions, and if there are no provisions, this article may be left blank.

THE CORPORATION MAY BE A PARTNER IN ANY BUSINESS ENTERPRISE WHICH IT WOULD HAVE POWER TO CONDUCT BY ITSELF. EACH DIRECTOR OR OFFICER, PRESENT OR FORMER, OF THE CORPORATION OR OF ANY OTHER CORPORATION, A MAJORITY OF THE STOCK OF WHICH IS OWNED BY THE CORPORATION, SHALL BE INDEMNIFIED BY THE CORPORATION AGAINST ALL COSTS AND EXPENSES REASONABLY INCURRED BY OR IMPOSED UPON HIM OR HER IN CONNECTION WITH OR ARISING OUT OF ANY ACTION, SUIT, OR PROCEEDING IN WHICH HE OR SHE MAY BE INVOLVED BY REASON OF BEING OR HAVING BEEN SUCH DIRECTOR OR OFFICER, SUCH EXPENSES TO INCLUDE THE COST OF REASONABLE SETTLEMENTS (OTHER THAN AMOUNTS PAID TO THE CORPORATION ITSELF) MADE WITH A VIEW TO CURTAILING COSTS OR LITIGATION. THE CORPORATION SHALL NOT, HOWEVER, INDEMNIFY ANY SUCH DIRECTOR OR OFFICER WITH RESPECT TO MATTERS AS TO WHICH ANY DIRECTOR OR OFFICER SHALL BE FINALLY ADJUDGED IN ANY SUCH ACTION, SUIT, OR PROCEEDING NOT TO HAVE ACTED IN GOOD FAITH IN THE REASONABLE BELIEF THAT HIS OR HER ACTIONS WERE IN THE BEST INTEREST OF THE CORPORATION, OR IN RESPECT OF ANY MATTER ON WHICH ANY SETTLEMENT OR COMPROMISE IS EFFECTED IF THE TOTAL EXPENSES, INCLUDING THE COST OF SUCH SETTLEMENT, SHALL SUBSTANTIALLY EXCEED THE EXPENSE WHICH MIGHT REASONABLY BE INCURRED BY SUCH DIRECTOR OR OFFICER IN CONDUCTING SUCH LITIGATION TO A FINAL CONCLUSION. THE FOREGOING RIGHT OF INDEMNIFICATION SHALL NOT BE EXCLUSIVE OF OTHER RIGHTS TO WHICH ANY SUCH DIRECTOR OR OFFICER MAY BE ENTITLED AS A MATTER OF LAW. IN DETERMINING THE REASONABLENESS OF ANY SETTLEMENT, THE JUDGMENT OF THE BOARD OF DIRECTORS SHALL BE FINAL. NO CONTRACT OR OTHER TRANSACTION BETWEEN THE CORPORATION AND ANY OTHER FIRM OR CORPORATION SHALL BE AFFECTED OR INVALIDATED BY REASON OF THE FACT THAT ANY ONE OR MORE OF THE DIRECTORS OR OFFICERS OF THE CORPORATION IS OR ARE INTERESTED IN, OR IS A MEMBER, STOCKHOLDER, DIRECTOR, OR OFFICER, OR ARE MEMBERS, STOCKHOLDERS, DIRECTORS, OR OFFICERS OF SUCH FIRM OR CORPORATION; AND ANY DIRECTOR OR OFFICER OR OFFICERS INDIVIDUALLY OR JOINTLY, MA

Y BE PARTY OR PARTIES TO, OR MAY BE INTERESTED IN, ANY CONTRACT OR TRANSACTION OF THE CORPORATION OR IN WHICH THE CORPORATION IS INTERESTED, AND NO CONTRACT, ACT, OR TRANSACTION OF THE CORPORATION WITH ANY PERSON OR PERSONS, FIRM, ASSOCIATION, OR CORPORATION SHALL BE AFFECTED OR INVALIDATED BY REASON OF THE FACT THAT ANY DIRECTOR OR DIRECTORS OR OFFICER OR OFFICERS OF THE CORPORATION IS A PARTY OR ARE PARTIES TO, OR INTERESTED IN, SUCH CONTRACT, ACT, OR TRANSACTION OR IS OR ARE IN ANY WAY CONNECTED WITH SUCH PERSON OR PERSONS, FIRM, ASSOCIATION, OR CORPORATION AND EACH AND EVERY PERSON WHO MAY BECOME A DIRECTOR OR OFFICER OF THIS CORPORATION IS HEREBY RELIEVED FROM ANY LIABILITY THAT MIGHT OTHERWISE EXIST FROM THUS CONTRACTING WITH THE CORPORATION FOR THE BENEFIT OF HIMSELF OR HERSELF, OR ANY FIRM, ASSOCIATION, OR CORPORATION WHICH HE OR SHE MIGHT BE IN ANY WAY INTERESTED.

Note: The preceding six (6) articles are considered to be permanent and may be changed only by filing appropriate articles of amendment.

ARTICLE VII

The effective date of organization and time the articles were received for filing if the articles are not rejected within the time prescribed by law. If a *later* effective date is desired, specify such date, which may not be later than the *90th day* after the articles are received for filing.

Later Effective Date: Time:

ARTICLE VIII

The information contained in Article VIII is not a permanent part of the Articles of Organization.

a,b. The street address of the initial registered office of the corporation in the commonwealth and the name of the initial registered agent at the registered office:

Name: STEVEN GREENWALD
 No. and Street: 409 FORTUNE BLVD.
 City or Town: MILFORD State: MA Zip: 01757 Country: USA

c. The names and street addresses of the individuals who will serve as the initial directors, president, treasurer and secretary of the corporation (an address need not be specified if the business address of the officer or director is the same as the principal office location):

Title	Individual Name First, Middle, Last, Suffix	Address (no PO Box) Address, City or Town, State, Zip Code
PRESIDENT	MICHAEL DEAN	60 FISKE MILL ROAD UPTON, MA 01568 USA
TREASURER	STEVEN GREENWALD	15 CLAFLIN FARM ROAD UPTON, MA 01568 USA
SECRETARY	STEVEN GREENWALD	15 CLAFLIN FARM ROAD UPTON, MA 01568 USA
DIRECTOR	MICHAEL DEAN	60 FISKE MILL ROAD UPTON, MA 01568 USA
DIRECTOR	STEVEN GREENWALD	15 CLAFLIN FARM ROAD UPTON, MA 01568 USA

d. The fiscal year end (i.e., tax year) of the corporation:

January

e. A brief description of the type of business in which the corporation intends to engage:

SURVEYING AND CIVIL ENGINEERING

f. The street address (post office boxes are not acceptable) of the principal office of the corporation:

No. and Street: 115 WATER STREET
SUITE 101
City or Town: MILFORD State: MA Zip: 01757 Country: USA

g. Street address where the records of the corporation required to be kept in the Commonwealth are located (post office boxes are not acceptable):

No. and Street: 115 WATER STREET
SUITE 101
City or Town: MILFORD State: MA Zip: 01757 Country: USA

which is

its principal office an office of its transfer agent
 an office of its secretary/assistant secretary its registered office

Signed this 18 Day of May, 2022 at 5:10:28 PM by the incorporator(s). *(If an existing corporation is acting as incorporator, type in the exact name of the business entity, the state or other jurisdiction where it was incorporated, the name of the person signing on behalf of said business entity and the title he/she holds or other authority by which such action is taken.)*

MICHAEL JUSTER

THE COMMONWEALTH OF MASSACHUSETTS

I hereby certify that, upon examination of this document, duly submitted to me, it appears that the provisions of the General Laws relative to corporations have been complied with, and I hereby approve said articles; and the filing fee having been paid, said articles are

deemed to have been filed with me on:

May 18, 2022 05:08 PM

A handwritten signature in cursive script that reads "William Francis Galvin". The signature is written in black ink and is centered on the page.

WILLIAM FRANCIS GALVIN

Secretary of the Commonwealth

EXHIBIT 2

MICHAEL DEAN
60 FISKE MILL RD
UPTON, MA 01568-1216

(EN)

Fold, Then Detach Along All Perforations

COMMONWEALTH OF MASSACHUSETTS
DIVISION OF OCCUPATIONAL LICENSURE
BOARD OF
ENGINEERING
ISSUES THE FOLLOWING LICENSE
REG/PROF CIVIL ENGINEER

MICHAEL DEAN
60 FISKE MILL RD
UPTON, MA 01568-1216


LICENSE SIGNATURE

46255 06/30/2024 257386

LICENSE NUMBER EXPIRATION DATE SERIAL NUMBER

Fold, Then Detach Along All Perforations

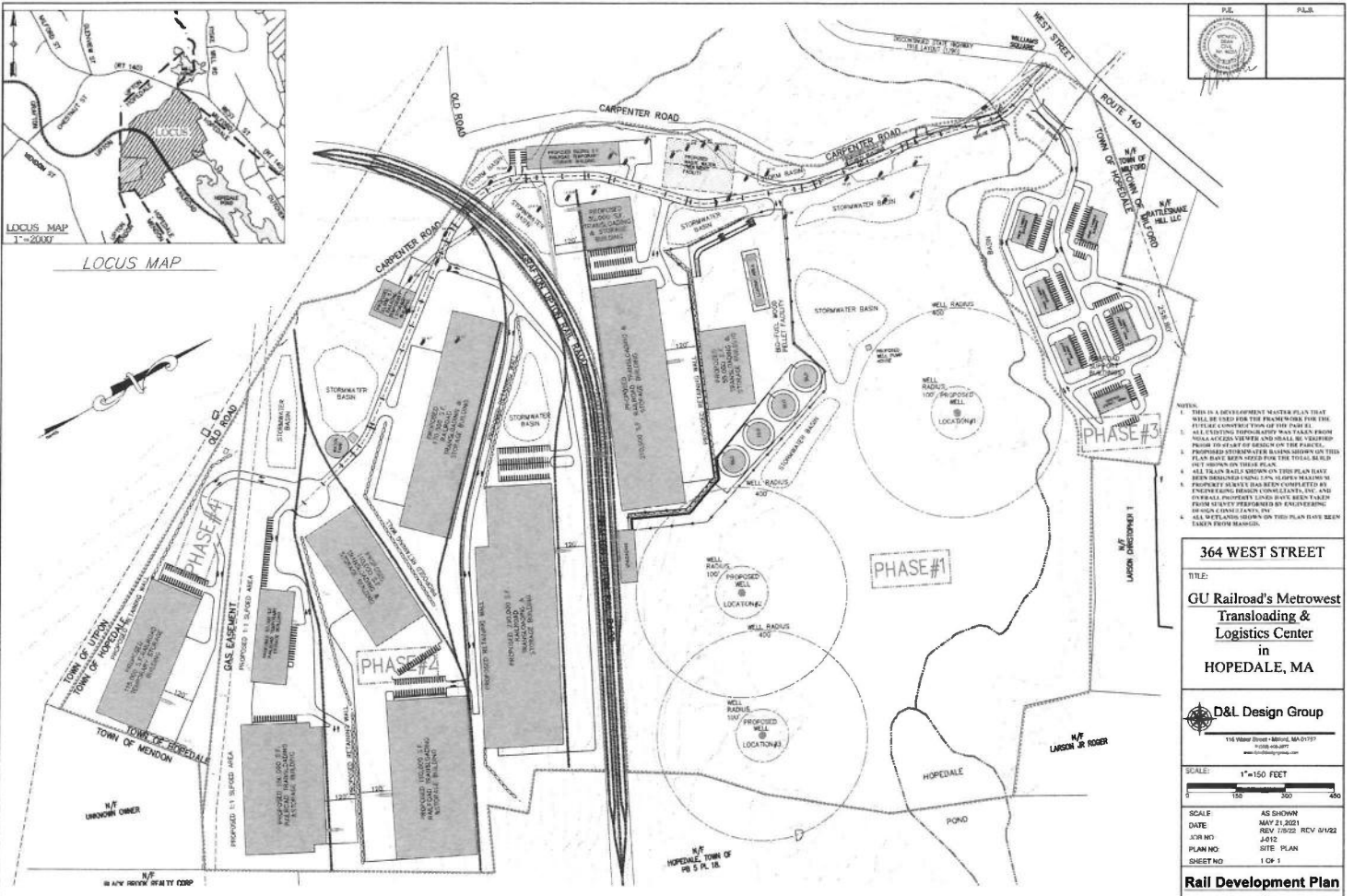
CONTROL # J1874435

IMPORTANT

If your license is lost, damaged or destroyed; is inaccurate; or needs to be corrected, visit our web site at mass.gov/dpl for instructions to ensure the proper mailing of your Renewal Application and any other correspondence.

This license is subject to Massachusetts General Laws and regulations. Your license is a privilege, and cannot be lent or assigned to any person or entity under penalty of law. Keep this license on your person or posted as required by law and/or regulations.

EXHIBIT 3



- NOTES:
1. THIS IS A DEVELOPMENT MASTER PLAN THAT WILL BE USED FOR THE FRAMEWORK FOR THE SEVERAL CONCRETE TIER OF THE PLAN.
 2. ALL EXISTING UTILITIES SHALL BE TAKEN FROM THE RECORD DRAWINGS AND SHALL BE VERIFIED BY THE FIELD BEFORE THE PROJECT.
 3. PROPOSED STORMWATER BASINS SHOWN ON THIS PLAN HAVE BEEN SIZED FOR THE TOTAL DESIGN FLOW ON THIS PLAN.
 4. ALL EXISTING WELLS SHOWN ON THIS PLAN HAVE BEEN DESIGNATED AS 1.5' DIAMETER WELLS. PROPERTY RECORDS HAVE BEEN REVIEWED AND ALL EXISTING WELLS HAVE BEEN IDENTIFIED. ALL EXISTING WELLS SHOWN ON THIS PLAN HAVE BEEN TAKEN FROM RECORDS. THE WELL LOCATIONS SHOWN ON THIS PLAN HAVE BEEN TAKEN FROM RECORDS.

364 WEST STREET

TITLE:
GU Railroad's Metrowest Transloading & Logistics Center in HOPEDALE, MA

D&L Design Group
 110 North Street - Middlebury, MA 05757
 802-448-4477
 www.dandlgroup.com

SCALE: 1"=150 FEET

0 100 200 300 400

SCALE: AS SHOWN
 DATE: MAY 21, 2021
 JOB NO: REV: 7/8/22 REV: 5/1/22
 PLAN NO: J412
 SHEET NO: SITE PLAN
 1 OF 1

Rail Development Plan

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 36696

**GRAFTON AND UPTON RAILROAD COMPANY –
PETITION FOR DECLARATORY ORDER**

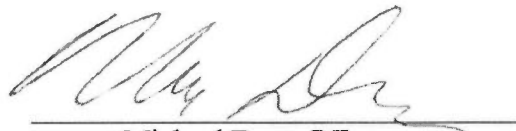
VERIFIED STATEMENT OF MICHAEL DEAN, P.E.

- 1) I am Michael Dean; P.E. and I have personal knowledge of the facts set forth within this Verified Statement.
- 2) I am a licensed professional engineer and am the President of D&L Design Group, Inc. (“D&L”). D&L has been working with GURR over the past year or so on a project known as 364 West Street, Hopedale, MA. The plans have been conceptual in nature and have been prepared in conjunction with GURR representatives and D&L.
- 3) The conceptual plan referred to as, “GU Railroad’s Metro West Transloading & Logistics Center in Hopedale, MA” is dated, revised through August 1, 2022, was a culmination of working with GURR representatives over several months. This conceptual plan is an absolute total build out of the property. This layout is mainly governed by the 2.5 % slopes of the proposed rails (see the “switchback” type rail layout system), which in turn dictates large cuts, fills, and retaining walls. The layout as set forth in the August 1, 2022, plan accurately reflects that the entire Site has potential to be developed / used, as this is what conceptual plans are often used for. The issues with the August 1, 2022 plan, even once final design has taken place, will be impacted by cost, and whether GURR in its business judgment is willing to spend the money required to perform the necessary earthworks and excavation to address slope. Civil Engineering exercises can typically address sloping, cuts, fills and retaining walls, it then becomes a matter of cost.
- 4) Over the last few months, D&L has worked with the GURR representatives, including Mr. Delli Priscoli. D&L was asked to prepare another concept plan with two buildings closer to the existing railway. This revised plan is much smaller in nature (in terms of overall development) and will not require the same amount of earthwork/excavation (cuts and fills) and retaining walls as the August 1, 2022, Concept Plan. A true and accurate

copy of the revised Conceptual Plan is attached hereto as Exhibit A. The scaled back nature of this plan avoids the major / extensive slope issues posed by the total buildout / August 1, 2022 plan, and is a practical and feasible approach to developing the site. This revised plan has potential to be added on to incrementally in the future.

- 5) Without getting into the financial approach to developing this project, as that is determined by the company itself, the second Conceptual Plan is much less expensive to construct, from a Civil engineering and site work/excavation perspective.

I, Michael Dean, being duly sworn, state that I am authorized to execute, verify, and file this Verified Statement. I have knowledge of the matters herein, and the statements made herein are true and correct to the best of my knowledge, information, and belief.



Michael Dean, P.E.

Dated: August 4, 2023

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 36696

**GRAFTON AND UPTON RAILROAD COMPANY –
PETITION FOR DECLARATORY ORDER**

SECOND VERIFIED STATEMENT OF JON DELLI PRISCOLI

- 1) I am Jon Delli Priscoli and I have personal knowledge of the facts set forth within this Verified Statement.
- 2) I have reviewed the Petition of the Town of Hopedale, Massachusetts (the “Town”) to Supplement the Record and I submit this Verified Statement in response to that Motion.
- 3) As I stated in my April 13, 2023 Verified Statement, I have owned the Grafton and Upton Railroad Company (“GURR”) since 2008. During the period 2008 to approximately 2016, I served as GURR’s President. In or around 2019, I resigned as President, and GURR hired Michael Milanoski to succeed me as President.
- 4) After Mr. Milanoski succeeded me as President in 2019, I stepped back from, and was not involved closely in the day-to-day operations of GURR until January 2023. During the period when Mr. Milanoski served as President of GURR, he oversaw its day-to-day operations.
- 5) During the 2019 – January 2023 time period, Mr. Milanoski kept me apprised of the decisions he was making as they related to the operations of GURR; however, I was not involved in GURR’s day-to-day activities.
- 6) I had knowledge of GURR’s efforts to identify new potential land acquisitions in an effort to meet the needs of GURR’s growing business during this 2019-2023 period. GURR searched for land acquisition opportunities with access to its existing 16.5 miles of rail. To that end, I was pleased that GURR identified and then acquired land in the

Town located at 364 West Street. For purposes of this statement the land at 364 West Street will be hereinafter referred to as the "Site".

- 7) The Site is an undeveloped parcel that has long been zoned for industrial development by the Town.
- 8) In or around 2021, I understand that Mr. Milanoski engaged Mr. Michael Dean, P.E., a professional engineer and land surveyor, licensed by the Commonwealth of Massachusetts, to prepare/design a proposed plan for the Site's development as a rail transloading facility. It is my understanding that Mr. Dean evaluated many issues concerning the Site including slope and methods to address slope (including by the use of switchbacks and the use of gravity to load or unload railcars). I understand from reviewing Mr. Dean's February 2023 Affidavit that was submitted in the preceding Federal Court Action, that there were different, good-faith versions of the design plan for the Site that were developed over time, including a plan entitled "GU Railroad's Metrowest Transloading & Logistics Center in Hopedale, MA" dated, August 1, 2022. A true and accurate copy of this plan, revised through August 1, 2022, was submitted in the Federal Court Action and to the STB with respect to this current Petition in April 2023.
- 9) The August 1, 2022 plan represented an absolute total build out of the Site. The layout of the plan was governed by and meant to address the slope issues on the property and included a switchback rail layout system, which in turn required significant earthwork (including cuts and fills) and retaining walls.
- 10) After returning to GURR as President in January 2023 and assuming responsibility for the day-to-day operations of the railroad, I spent significant time reviewing the August 1, 2022 conceptual plan prepared by Mr. Dean and evaluating its financial, engineering, and environmental feasibility. After this review, I concluded that the conceptual plan, while certainly possible to build as reflected by Mr. Dean's professional stamp affixed to the plan, may not be what was necessary or cost-effective in the present environment. After meeting with engineers and environmental experts, including Mr. Dean, I was concerned that the slope issues would be more expensive to remedy in the current financial environment. Furthermore, certain conditions existed at the Site that would make building out the Site as illustrated in the conceptual plan to be expensive and presently unnecessary when compared to other potential scaled-down and less expensive options. More than 18 months have passed since the Town started trying to prevent the development of rail facilities on the Site and interest rates and financing has changed in that time.
- 11) I have made reasonable judgments about what can be developed now versus the larger expansion plan. Ultimately slope issues can be remedied with money, but at this moment that expense is not necessary.



- 12) I have never wavered from GURR's intention to develop the Site as a rail transloading facility. What I was uncertain about was how best to build an appropriate transloading facility in a reasonable and cost-effective manner.
- 13) Along with GURR's engineers and environmental professionals, I have been working on a revised development plan (the "New Plan") for the Site. The New Plan shows fewer transloading buildings, less land disturbance and provides for a reasonably cost-effective alternative to the August 2022 conceptual plan, previously circulated. The New Plan takes a more conservative and incremental approach to development. The New Plan will be easier to develop in the near term for purposes of adding tracks and other rail-related improvements and will include the facilities for wastewater, wells and buffer zones that were necessary parts of the earlier plan. I believe that the New Plan will grow GURR's business, but at the same time will not incur excessive debt – especially given the substantial interest rate increases over the 18 months that the Town has been trying to prevent rail development by GURR. The most recent version of the New Plan is attached hereto as Exhibit 1.
- 14) I believe that all parties to this action are aware that Mr. Milanoski and I are adverse parties in two lawsuits filed in the Business Litigation Session of the Massachusetts Superior Court. A preliminary injunction was issued in one of those cases whereby GURR is prohibited from transferring assets.
- 15) Presently, through my attorneys, I am attempting to have the preliminary injunction modified. In that regard, I submitted an affidavit to the Superior Court, the purpose of which was to provide information on GURR's need to incur debt, transfer assets, and take other day-to-day actions to ensure the continued operation of the railroad.
- 16) Because I was seeking to modify the Superior Court preliminary injunction, I included some discussion about the challenges posed by the West Street Site, including expenses incurred by GURR, potential environmental costs, the need for a scaled down plan, and the fact that GURR would be open to (but is enjoined from) entertaining potential settlement scenarios with the Town which could result in the Town receiving some of the land.

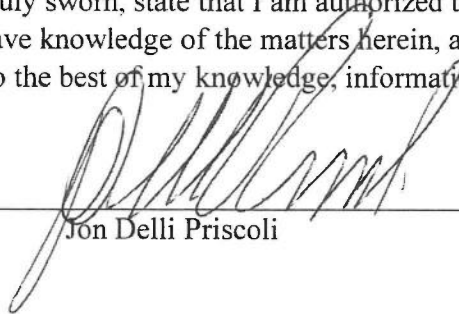


- 17) GURR has recently spent more than \$200,000 at the site on environmental work and has worked with Federal authorities to address wetlands issues. GURR has also been and remains willing to meet and discuss the project with the Town, but to date the Town has not wavered from its goal of acquiring the entire Site and preventing any rail development at 364 West Street.
- 18) I stated in my Superior Court affidavit that “I have determined that Milanoski’s plan for the site was not workable since slope issues make track installation impractical.” I understand that the Town stated in its recent filing to the Board that I “agree[] with Hopedale’s position...that the steep slope of the property makes it impossible for GURR to use the property for the purported transload facility.” Town’s July 18, 2023 Petition, p. 2 (emphasis added). I absolutely do not agree with the Town’s characterization of my affidavit, which did not use the word “impossible.” The assessment set forth in my Superior Court affidavit reflected the current situation as opposed to the situation in August 2022 when Mr. Milanoski developed the plan, including the intervening delay arising out of the federal court action, the expenses incurred during that delay, and the changing financial landscape of the past year. The August 1, 2022 plan was and remains possible to build. However, in my business judgment a scaled back plan (with the opportunity for expansion down the line if GURR cannot reach an agreement with the Town) is the practical and cost-effective approach at this time.
- 19) Notwithstanding the assertions set forth by the Town in its July 18, 2023 filing, it has never been GURR’s intention to abandon plans for the Site’s development as a rail transloading facility. To the contrary, GURR, as previously stated, needs to expand its business at the Site to serve rail customers, the growth of rail freight in the area, and the public interest.
- 20) The development of the Site continues to be an important component of GURR’s future rail operations. The Town’s planned eminent domain taking would condemn the entire property and is intended to prevent any future rail transportation use at the Site. The Town has reiterated its intent to take the entire 130+ acre parcel with votes to take this property by eminent domain by the Town’s Selectboard on June 26, 2023, and July 24, 2023. Copies of the Selectboard’s agendas reflecting the votes are attached hereto as Exhibit 2.



I, Jon Delli Priscoli, being duly sworn, state that I am authorized to execute, verify, and file this Verified Statement. I have knowledge of the matters herein, and the statements made herein are true and correct to the best of my knowledge, information, and belief.

Date: August 2, 2023



Jon Delli Priscoli

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 36696

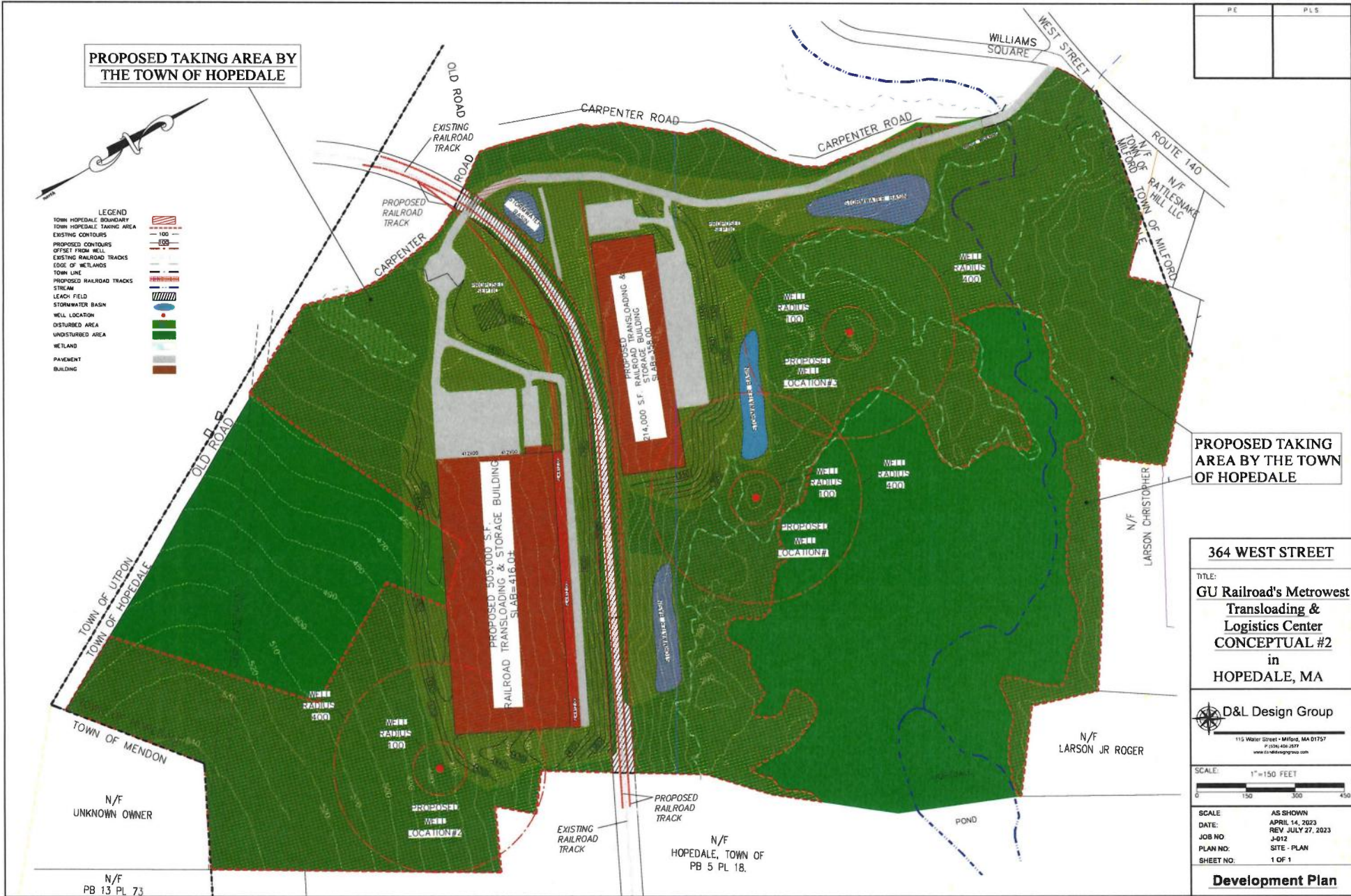
**GRAFTON AND UPTON RAILROAD COMPANY –
PETITION FOR DECLARATORY ORDER**

**SECOND VERIFIED STATEMENT OF JON DELLI PRISCOLI
EXHIBIT 1**

PROPOSED TAKING AREA BY THE TOWN OF HOPEDALE



- LEGEND**
- TOWN HOPEDALE BOUNDARY
 - TOWN HOPEDALE TAKING AREA
 - EXISTING CONTOURS
 - PROPOSED CONTOURS
 - OFFSET FROM WELL
 - EXISTING RAILROAD TRACKS
 - EDGE OF WETLANDS
 - TOWN LINE
 - PROPOSED RAILROAD TRACKS
 - STREAM
 - LEACH FIELD
 - STORMWATER BASIN
 - WELL LOCATION
 - DISTURBED AREA
 - UNDISTURBED AREA
 - WETLAND
 - PAVEMENT
 - BUILDING



PE	PLS

PROPOSED TAKING AREA BY THE TOWN OF HOPEDALE

364 WEST STREET

TITLE:
GU Railroad's Metrowest Transloading & Logistics Center CONCEPTUAL #2
 in
HOPEDALE, MA

D&L Design Group
 115 Water Street • Milford, MA 01757
 P: 508.464.0177
 www.dandlgroup.com



SCALE AS SHOWN
 DATE: APRIL 14, 2023
 JOB NO: REV JULY 27, 2023
 PLAN NO: J-012
 SHEET NO: SITE - PLAN
 1 OF 1

Development Plan

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Docket No. FD 36696

**GRAFTON AND UPTON RAILROAD COMPANY –
PETITION FOR DECLARATORY ORDER**

**SECOND VERIFIED STATEMENT OF JON DELLI PRISCOLI
EXHIBIT 2**



TOWN OF HOPEDALE

78 Hopedale Street - P.O. Box 7
Hopedale, Massachusetts 01747
Tel: 508-634-2203 Fax: 508-634-2200
www.hopedale-ma.gov

Select Board
Glenda A. Hazard, Chair
Bernard J. Stock
Scott M. Savage

Select Board
Meeting Agenda
HYBRID MEETING
Draper Room
June 26, 2023
6:30 p.m.

RECEIVED

By Lisa M. Pedroli at 2:57 pm, Jun 22, 2023

On July 16, 2022, Lt. Governor Polito, as Acting Governor, signed into law An Act Extending Certain COVID-19 Measures Adopted During the State of Emergency.¹ This meeting will be held via HYBRID means. This meeting will also be streamed live, click here: https://townhallstreams.com/towns/hopedale_ma

Join Zoom Meeting

<https://us02web.zoom.us/j/87145575031?pwd=eHBzbWFwODhSWUtUandGZmIrWDZqQT09>

Meeting ID: 871 4557 5031

Passcode: 189825

One tap mobile +16469313860,,87145575031#,,,,*189825# US

Public Comments – The Hopedale Select Board encourages citizens to attend its meetings and welcomes their views on pertinent subjects. Anyone may comment for up to three minutes during the Public Comment portion of the agenda regarding an issue that is not on the agenda. However, given that no public notice of the topic has been provided, the Select Board will not engage in discussion. The Select Board will give your issue appropriate consideration. Anyone may also comment during any agenda item for up to three minutes.

Call to order 6:30 p.m.

A. Consent Items

- a. Welcome to Mitchell Ruscitti, Town Administrator!
- b. Review/Approve Inter-Fund Transfers
- c. Review/Approve Meeting Minutes: December 20, 2021 and June 12, 2023
- d. Accept \$21,130.50 donation from anonymous donor to fund legal fees associated with West Street litigation (and any other donations that may be received prior 4:00 p.m. on June 26, 2023)

B. Appointments & Resignations

- a. Resignation of Marcia Matthews from Conservation Commission
- b. Resignation of Chris Leduc, Road Commissioner

C. New Business

- a. Meet with Road Commissioners
 - Regarding Hiring of Highway Superintendent
 - Regarding Process for Filling the Vacancy on the Road Commission
- b. Consider and Vote on proposed expansion of OGeez Brands MA, LLC, at its 6 Charlesview marijuana manufacturing facility to occupy a total of approximately 7,400 square feet on the first and second floors.

D. Old Business

- a. Consider and Vote on Proposed Order of Taking for Land at 364 West Street Pursuant to

Article 1 of the July 11, 2022 Special Town Meeting

- E. Public and Board Member Comments (votes will not be taken)
- F. Requests for Future Agenda Items
- G. Administrator Updates
- H. Correspondence and Select Board Informational Items (votes will not be taken)
- I. Executive Session(s):
 - a. Motion: To move into Executive Session pursuant to M.G.L. c.30A, § 21(a)(3), to discuss strategy with respect to litigation because an open meeting may have a detrimental effect on the litigation position of the Town, and the Chair so declares, in matters captioned Town of Hopedale v. Jon Delli Priscoli, Reilly v. Town of Hopedale, and Grafton & Upton Railroad v. Town of Hopedale. Attorney Sean Grammel from Anderson Kreiger LLP will be present.

Please note the Select Board agenda may be subject to change and items not anticipated may be discussed and all listed agenda items may be subject to a vote.

¹ Chapter 2 of the Acts of 2023 authorized an extension, until March 31, 2025, of the remote meeting provisions of the March 12, 2020 Executive Order Suspending Certain Provisions of the Open Meeting Law. Section (1) of the executive order allowing public access through adequate, alternative means is independent from Section (2), which allows members of the public body to participate remotely. The public body may conduct its proceedings under the relief provided in section (1) or (2) or both.



TOWN OF HOPEDALE

78 Hopedale Street - P.O. Box 7
Hopedale, Massachusetts 01747

Tel: 508-634-2203 Fax: 508-634-2200
www.hopedale-ma.gov

Select Board
Glenda A. Hazard, Chair
Bernard J. Stock
Scott M. Savage

Town Administrator
Mitchell Ruscitti

RECEIVED

By Lisa M. Pedroli at 2:02 pm, Jul 20, 2023

**Select Board
Meeting Agenda
HYBRID MEETING
Draper Room
July 24, 2023
6:30 p.m.**

This meeting will be held via HYBRID means¹ and will also be streamed live, click here:
https://townhallstreams.com/towns/hopedale_ma

Join Zoom Meeting

<https://us02web.zoom.us/j/87145575031?pwd=eHBzbWFwODhSWUtUandGZmIrWDZqQT09>

Meeting ID: 871 4557 5031

Passcode: 189825

One tap mobile +16469313860,,87145575031#,,,,*189825# US

Public Comments – The Hopedale Select Board encourages citizens to attend its meetings and welcomes their views on pertinent subjects. Anyone may comment for up to three minutes during the Public Comment portion of the agenda regarding an issue that is not on the agenda. However, given that no public notice of the topic has been provided, the Select Board will not engage in discussion. The Select Board will give your issue appropriate consideration. Anyone may also comment during any agenda item for up to three minutes.

Call to order: 6:30 p.m.

A. Consent Items

- a. Review/Approve Meeting Minutes: April 7, 2021, May 5, 2021, December 20, 2021

B. Appointments & Resignations

- a. Interviews for Zoning Board of Appeals vacancy (appointment effective July 25, 2023, expiring June 30, 2025)
 - Allen Lavoie
 - Michael Costanza
- b. Consider appointment of Casey Sweet as Career Firefighter/EMT effective July 25, 2023
- c. Accept resignation of Police Officer Cameron Amaral
- d. Accept resignation of Kristen Krauss, Call Firefighter/Paramedic effective August 6, 2023
- e. Consider Re-Appointments:
 - Tara Taglianetti-Chambers to Board of Registrars, effective July 25, 2023, expiring June 30, 2026
 - Dan Malloy to Council on Aging, effective July 25, 2023, expiring June 30, 2026

C. New Business

- a. Meeting with Mitchell A. Intinarelli, Hopedale Representative to Blackstone Valley Regional

Vocational Technical High School's School Committee

- b. Discussion regarding draft letter to Grafton Upton Railroad
- c. Update regarding Junior-Senior High School roof bid – Superintendent Karen Crebase
- d. Review/Approve Social Media/Networking Policy & Use Guidelines

D. Old Business

- a. Consider and Vote on Proposed Order of Taking for Land at 364 West Street Pursuant to Article 1 of the July 11, 2022 Special Town Meeting

E. Public and Board Member Comments (votes will not be taken)

F. Requests for Future Agenda Items

G. Administrator Updates

H. Correspondence and Select Board Informational Items (votes will not be taken)

I. Executive Session(s):

- a. Move to enter into Executive Session, pursuant to M.G.L. c.30A, § 21(a)(4): To discuss the deployment of security personnel or devices, or strategies with respect thereto and the Chair so declares and, further, that the Board shall adjourn the meeting at the conclusion of the executive session and not return to open session. (Roll Call Vote)

Please note the Select Board agenda may be subject to change and items not anticipated may be discussed and all listed agenda items may be subject to a vote.

¹ On July 16, 2022, Lt. Governor Polito, as Acting Governor, signed into law An Act Extending Certain COVID-19 Measures Adopted During the State of Emergency. Chapter 2 of the Acts of 2023 authorized a further extension – until March 31, 2025 – of the remote meeting provisions established by the initial March 12, 2020 Executive Order Suspending Certain Provisions of the Open Meeting Law. Section (1) of the executive order allowing public access through adequate, alternative means is independent from Section (2), which allows members of the public body to participate remotely. The public body may conduct its proceedings under the relief provided in section (1) or (2) or both.