

**BOARD OF PESTICIDES CONTROL
APPLICATION FOR VARIANCE PERMIT
(Pursuant to Chapter 29, Section 6 of the Board's Regulations)**

I. Name: Douglas Kephart

Telephone Number: (814) 602-7032

Company Name: Davey Tree Expert Company | Railroad Division

Address: 1500 North Mantua Street, Kent, OH 44240

II. Master Applicator (if applicable): Douglas Kephart

License Number: CMA-6054

Address: Same as above.

III. **As part of your application, please send digital photos showing the target site and/or plants and the surrounding area, particularly showing proximity to wetlands and water bodies, to pesticides@maine.gov**

IV. Area(s) where pesticide will be applied: Canadian Pacific rail tracks [“CPRR”; former Central Maine & Quebec]: 48-foot wide spray pattern [24 ft. from each side of center of tracks].

V. Pesticide(s) to be applied: Various combinations of:

- Esplanade 200 SC [EPA Reg. #432-1516], at 5 oz./acre;
- Method 240 SL [EPA Reg. #432-1565], at 12 oz./acre;
- Oust XP [EPA Reg. #432-1552], at 4 oz./acre;
- Roundup Custom [EPA Reg. #524-343], at 36 oz./acre.

VI. Purpose of pesticide application: According to federal laws, and regulations of the Federal Railroad Administration, the ballast, shoulder and areas adjacent to shoulder sections of railroad rights-of-way must be maintained to be free of weeds, grasses and brush free for many reasons, including to provide visibility at road crossings, to allow for proper inspection of tie fastenings, switches and rails, to maintain proper drainage, to allow for inspection of trains, to remove health and safety hazards, to improve working conditions, and to reduce fire hazards.

VII. Approximate dates of spray application: Approx. June 1 through Sept. 30, 2022.

VIII. Application Equipment: Hi-Rail Truck with 7-foot fixed boom mounted underneath the truck at 18 inches above the ground, with boomless nozzles to spray on both sides of the truck.

IX. Standard(s) to be varied from: Chapter 29, Section 6A, which does not allow terrestrial broadcast application of herbicides within 25 feet of the mean high water marks from surface waters including wetlands as defined in this section.

X. Method to ensure equivalent protection: CPRR personnel have track charts [“System Track Profiles”] which show the locations of culverts and bridges. CPRR personnel will be in a track vehicle running ahead of the Davey Tree herbicide spray vehicle, who will communicate by radio with the herbicide applicator when there are approaching culverts or bridges with running water underneath, or lakes, ponds, rivers, streams, estuarine or marine waters, wetlands, or other sensitive areas adjacent to the track.

Standard herbicide application methods throughout Davey Tree's service area in Maine will include using drift control agents, using nozzles that enlarge the droplet size to reduce drift, using low-volatility herbicides, monitoring weather conditions and cancelling operations when rainfall is predicted.

The Davey Tree applicator will provide 10-foot no-spray zones from lakes, rivers, streams and surface waters. Within these 10-foot no-spray zones, alternative vegetation control measures will be used.

The Davey Tree applicator will also only apply glyphosate-containing herbicides [in 2022, "Roundup Custom"] within 0.5 miles from a public water supply whose water source has been identified as surface water by the Maine Division of Environmental and Community Health [Maine Dept. HHS; Center for Disease Control & Prevention] and the Maine Dept. of Environmental Protection [GIS Unit; and Drinking Water Program] using their images via Google Earth.

Davey Tree will conduct the applications of herbicides in a manner which protects surface waters.

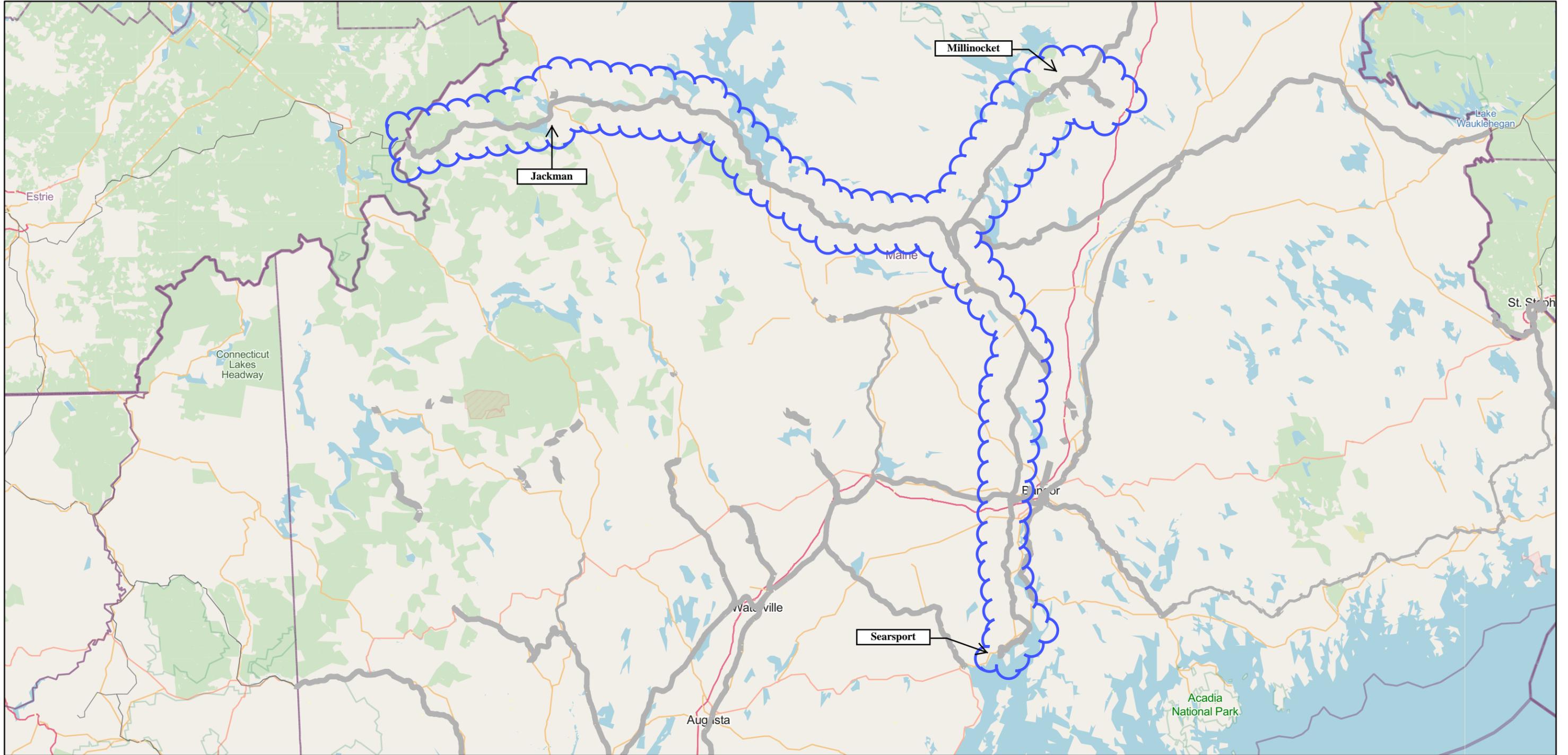
Signed:  Date: 4/21/2022

Return completed form to:

Board of Pesticides Control, 28 State House Station, Augusta, ME 04333-0028

OR E-mail to: pesticides@maine.gov

Canadian Pacific RR



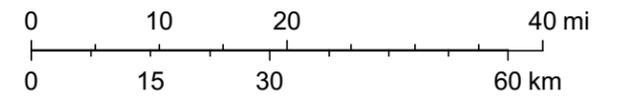
3/31/2022

MaineDOT - Railroads - Railroads

- Active
- Inactive, with track
- Abandoned, possibly no track.
- Track removed, Right of way repurposed.

Canadian Pacific RR Tracks
in Maine
3/31/2022 WHEM
Burlington, VT.

1:1,280,220



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From: [Craig Heindel](#)
To: [Couture, Amanda](#)
Cc: [Bryer, Pamela J](#); [wshellito](#)
Subject: Re: Canadian Pacific RR: Application for Variance Permit for herbicide application [re: Ch. 29, Sect. 6]
Date: Monday, April 25, 2022 8:55:29 AM

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Amanda and Pamela: The manager of the railroad division of Davey Tree reports that their herbicide application truck is similar to the one in the video you sent, except that it's a newer model with better controls and newer technology on the spray mechanisms. I attached some photos they provided of Davey Tree's herbicide application truck. It is a hi-rail weed spray truck [2018 Kenworth T800], with a 3,250 gal capacity tank. The spray system consists of a Raven Viper 4 computerized system with (3) Raven side kick pro injection pumps which alleviate the need to tank mix the herbicides. The herbicides are directly injected into the spray mixture before leaving the nozzle. The system is GPS equipped and automatically documents the amount of product applied, where it was applied and when it was applied. The nozzles consist of a center 8' spray boom underneath the back of a truck with air induction low-drift flat spray nozzles ["air induction" is when air joins with the water molecule, it increases the droplet size and delivers more chemical to the leaf and reduces drift]. In addition, there are boomless Boom buster nozzles on the side of truck to spray the shoulder area of the railroad track bed. Photos are attached.

Regarding the detailed "system track profile" that I sent an example of earlier, the CPRR personnel report that the same communication procedures will be used this year as in previous years, and as explained in Section X of the 2022 variance application. The CPRR personnel in the lead truck are very familiar with the location of each crossing of flowing water. The lines on each system track profile identify the location of each culvert and bridge [for example, "CMP" means corrugated metal pipe; "T..." means a trestle bridge, etc. The line on the system track profile for each feature also includes its diameter or size, and length; and identifies the "track-mile" location to the nearest 0.01 mile. Both trucks have GPS locators and radio communications. So there is thorough knowledge of when they are approaching a crossing over flowing water.

Let us know if you have additional questions or concerns.

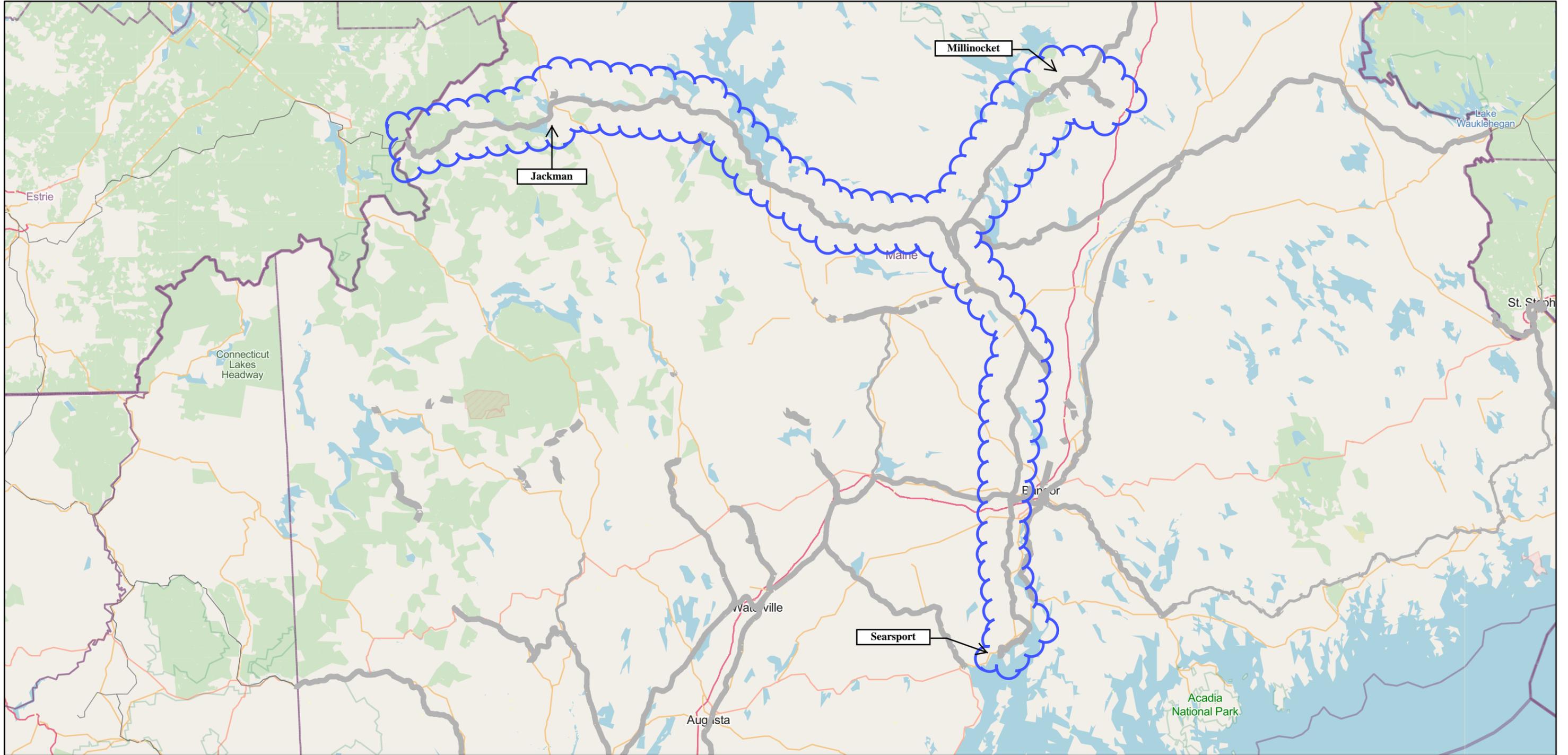
thanks,

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Canadian Pacific RR



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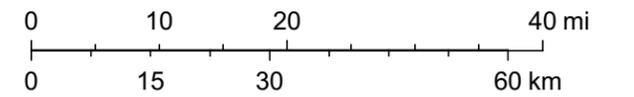
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