



Paul R. LePage  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF TRANSPORTATION  
16 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0016

MAR 26 2014

David Bernhardt  
COMMISSIONER

March 24, 2014

Catherine Pendergast  
State of Maine  
Professional & Financial Regulation  
Real Estate Commission  
35 State House Station  
August, ME 04333-0035

Dear Ms. Pendergast:

We spoke last fall regarding the purchase and sale of real estate where the landowner is crossing railroad property for ingress and egress to their property. Unless the landowner has a deeded right to cross granted directly by the railroad, they are required to get permission and execute an agreement with the railroad owner for the right to cross. I have enclosed a contact list of the railroad personnel for both privately owned railroads and the State of Maine owned railroad lines. Another source of information is the State of Maine website: [Maine.gov/mdot/utilities/railroads](http://Maine.gov/mdot/utilities/railroads).

For crossings on State-owned rail lines, MaineDOT has a policy in place with regards to the licensing of private crossings over State owned rail lines. It is known as Administrative Policy Memorandum #200 "Licensing Non-Deeded Private Crossings Over State-owned Rail Lines". A copy of this policy is also enclosed.

In an effort to avoid railroad crossing issues, please share this information with your licensed real estate agents. If a landowner is crossing railroad property without an agreement in place, they could be considered a trespasser by the railroad owner.

If you have any questions, please contact me at (207) 441-8143 or by email at [julia.picard@maine.gov](mailto:julia.picard@maine.gov).

Sincerely,

Julia M. Picard  
Sr. Technician

Enclosures

**MAINE RAILROAD CONTACT INFORMATION  
FOR CROSSINGS OVER / UNDER RAILROAD PROPERTY**

<b>Railroad Owner</b>	<b>Contact Name</b>	<b>Mailing Address</b>	<b>Phone Number</b>	<b>Email Address</b>
State of Maine	Julia Picard	MaineDOT 16 State House Station Augusta, ME 04333-0016	(207) 441-8143	julia.picard@maine.gov
Eastern Maine Railway	Fred McLaughlin	Eastern Maine Railway P. O. Box 245 Mattawamkeag, ME 04459	(207) 461-4610	McLaughlin.Fred@NBMRailways.com
Pan Am Railways	Milke Twombly	Pan Am Railways 1700 Iron Horse Park North Billerica, MA 01862-1681	(978) 663-6949	mtwombly@panam.com
St. Lawrence & Atlantic Railroad	Allan Bartlett	St. Lawrence & Atlantic Railroad 225 First Flight Drive, Suite 201 Auburn, ME 04210	(207) 740-3584	ahbartlett@yahoo.com
Central Maine & Quebec Railroad	Tom Tardif	Central Maine & Quebec Railroad 15 Iron Road Hermion, ME 04401	(207) 848-4246	ttardif@mmarail.com

Current as of March 17, 2014

MAR 26 2014

**State of Maine  
Department of Transportation**

Administrative Policy Memorandum #200  
July 27, 2005

TO: Bureau/Office/Division Directors, Region Managers, and Program Managers

SUBJECT: Licensing Non-Deeded Private Crossings Over State-owned Rail Lines

**I. SCOPE:**

This APM outlines steps and procedures that must be followed when licenses are requested for the establishment of non-deeded, private railroad crossings on State-owned rail lines or for licensing existing non-deeded, private crossings.

**II. RESPONSIBILITY:**

MaineDOT, with the Office of Freight Transportation as the lead, shall adhere to this APM as the manager of State-Owned rail lines. As described in this APM, the Office of Freight Transportation shall coordinate with the Bridge Maintenance Division and Railroad operators on active State-owned rail lines.

**III. GENERAL POLICY**

Lead Bureau: Office of Freight Transportation

\*\*\*\* If the rail line is active, all procedures must be conducted in cooperation with the operating Railroad, and with the Bridge Maintenance Division.

\*\*\*\* If the rail line is inactive, all steps below should be coordinated with the Bridge Maintenance Division.

1. Locate the crossing on the face of the earth and on the Valuation Plans, and coordinate with the operating Railroad.
2. Identify the owner(s) of property on both sides of the railroad right-of-way.
  - a. If the property owner is the same on both sides of the right-of-way, proceed to step 3.
  - b. If the property owners are different and no easements over property on either side exist, then owner will need to prove a right exists, if right cannot be proven, proceed to 2.c.
  - c. Where no crossing rights exist, send a certified letter to known users of the crossing advising of the results of our research and that the crossing will be removed in 180 days.
3. Send a certified letter to property owner advising that the Department is defining the terms under which the crossing can continue to exist. Ask if the landowner has any prior Agreement with the former rail line owner or the Department and if so, request documentation. Encourage the landowner to find other reasonable means of accessing their property that do not require a track crossing. Enclose a standard Private Crossing Agreement explaining that it is the Department's standard means of granting access over rail lines when deeded rights do not exist. Explain that as a matter of policy, the Department does not grant any permanent rights over State-owned rail lines. Explain that the Department is willing to discuss the terms of its Standard Agreement should the landowner have unique needs or conditions.
4. User responds affirmatively to Private Crossing Agreement: Have the agreement fully executed by landowner and the Department, obtain the certificate of insurance, and share copy of Agreement with operating Railroad.



#### 5. User takes exception to Private Crossing Agreement:

- a. Consider any unique or special circumstances raised by the landowner, either through written communication or through face to face discussions.
- b. If the parties cannot reach agreement within a 60 day period and a License executed, send certified letter advising that the Private Crossing Agreement must be signed as offered/negotiated, all terms must be met, and that absent such actions the crossing will not be approved and the landowner will be given up to 180 days to obtain alternate access. After the 180 days have passed the landowner will be served a notice that the crossing will be removed by the State or its rail operator. These timeframes can be shortened if circumstances (safety issues, changed railroad operations, weather) require.

#### REQUESTS FOR NEW CROSSINGS

\*\*\*\* If the request is on an active State-owned rail line, the operating Railroad must be contacted and their opinion must take priority.

\*\*\*\* If the request is on an inactive State-owned rail line, all steps below are to be coordinated with the Bridge Maintenance Division.

1. A request for a private crossing must be in writing.
2. Determine if applicant can obtain access via any means not requiring access over the rail line.
3. Determine purpose for crossing. If for residential construction, Department will not grant new crossings. If for agricultural or other temporary purposes, conduct the following steps.
4. If the answer to #2 is YES, then say NO to the crossing.
5. If the answer to #2 is NO, then conduct site review with operating Railroad to determine if a crossing can be safely created at the desired location.
6. If the answer to #5 is NO, then a crossing will not be allowed.
7. If the answer to #5 is YES, then with concurrence of the operating railroad, forward Standard Private Crossing Agreement for applicant's consideration.
  - a. On active lines, the annual maintenance fee will be \$350.00
  - b. On inactive lines, the annual crossing fee will be \$200.00.
8. On inactive lines, a new Private Crossing Agreement will contain language that automatically terminates the Agreement when an operating railroad takes control of the line. At that point, the continued existence of the crossing will be decided in consultation of the operating railroad. If the operating railroad says YES, then a new Private Crossing Agreement will be executed with a new annual maintenance fee and any other changes required by the operating railroad.